

# **Apostille Bill**

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**Bill No. 35/2020.**

*Read the first time on 5 October 2020.*

## **APOSTILLE ACT 2020**

**(No. of 2020)**

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A BILL

*intituled*

An Act to give effect to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, done at the Hague on 5 October 1961, and for connected purposes, and to make related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART 1  
PRELIMINARY

**Short title and commencement**

5     **1.** This Act is the Apostille Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**Interpretation**

**2.** In this Act, unless the context otherwise requires —

10     “Convention” means the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, done at the Hague on 5 October 1961, the English text of which is set out in the First Schedule;

“Convention State” means a State Party to the Convention other than Singapore, but does not include —

15     (a) any State Party that objected to Singapore’s accession to the Convention; and

(b) any State Party whose accession to the Convention Singapore objected to;

“Model Certificate” means the model certificate set out in the Annex to the Convention.

20     **Purpose**

**3.—**(1) The purpose of this Act is to give effect to the Convention.

(2) Part 2 —

(a) exempts foreign public documents (as defined in that Part) from any requirement of legalisation; and

25     (b) provides for the effect of certificates issued under the Convention and facilitates (but does not require) their use.

(3) Part 3 provides for certificates to be issued under the Convention for Singapore public documents (as defined in that Part).

**Act binds Government**

30     **4.** This Act binds the Government.

PART 2  
PROOF OF ORIGIN OF  
FOREIGN PUBLIC DOCUMENTS

**Application of this Part**

5. This Part applies to a foreign public document sought to be produced in Singapore for any purpose, including — 5

- (a) the purposes of proceedings in any court or tribunal; and
- (b) the purposes of exercising any power or right, or performing any function, duty or obligation, under or pursuant to any written law or rule of law. 10

**What is a foreign public document**

6. In this Part, “foreign public document” —

(a) means —

(i) a document executed in the territory of a Convention State and falling within any of the following categories: 15

(A) a document emanating from an authority or official connected with the courts or tribunals of that State, including a document emanating from a public prosecutor, a clerk of a court or a process-server; 20

(B) an administrative document;

(C) a notarial act;

(D) an official certificate that is placed on a document signed by a person in his or her private capacity (for example, an official certificate recording the registration of a document or the fact that the document was in existence on a certain date, or an official or a notarial authentication of a signature); or 25 30

(ii) a document (including a document that is not signed, sealed or stamped) that —

- (A) emanates from a Convention State; and
- (B) is treated as a public document by the law of that State; but

5 (b) does not include a document executed by a diplomatic or consular agent.

### **What is meant by the origin of a foreign public document**

7. In this Part, a reference to the origin of a foreign public document, or of a document purporting to be a foreign public document, is a reference to the following aspects of the document:

- 10 (a) the authenticity of the signature on the document;
- (b) the capacity in which the person signing the document has acted;
- (c) where appropriate, the identity of the seal or stamp that the document bears.

### **What is legalisation of a foreign public document**

8. In this Part, “legalisation”, in relation to a foreign public document, means the formality by which the diplomatic or consular agents of Singapore certify the origin of a foreign public document.

### **Legalisation not required for foreign public documents**

20 9.—(1) Legalisation is not required, and may not be performed, in relation to a foreign public document.

(2) This section applies despite any written law or rule of law to the contrary.

### **What is a Convention certificate (also known as an apostille)**

25 10. In this Part, “Convention certificate”, in relation to a foreign public document or a document purporting to be a foreign public document, means a certificate issued —

- (a) to certify the document for the purposes of the Convention; and

- (b) by an authority that, at the time of issuing the certificate, is designated by the State in which territory the document was executed, or from which the document emanates, as competent to issue the certificate in respect of the document.

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### **Effect of Convention certificate if used**

**11.—**(1) This section applies if a document purporting to be a Convention certificate (called in this section the purported certificate) is placed on or attached to a document purporting to be a foreign public document (called in this section the certified document).

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(2) Subject to subsection (3), the origin of the certified document is presumed to be sufficiently proven.

(3) Subsection (2) does not apply —

(a) if the contrary is proven;

(b) if it is proven that the certified document is not in fact a foreign public document;

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(c) if it is proven that the purported certificate is not in fact a Convention certificate in relation to the certified document; or

(d) if, and to the extent that, it is proven that —

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(i) the purported certificate suffers from any of the following defects:

(A) the certificate is not in, or substantially in, the form of the Model Certificate;

(B) any information required by the Model Certificate is omitted (unless the omitted information is not applicable to the certified document);

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(C) the purported certificate has been damaged, tampered with or modified;

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(D) the purported certificate is no longer placed on or attached to the certified document; and

- (ii) the defect affects the authenticity or reliability of the purported certificate in relation to the certified document.

### **Use of Convention certificate generally not mandatory**

5     **12.**—(1) Subject to subsection (2), a person seeking to prove the origin of a foreign public document —

- (a) is not required to do so by means of a Convention certificate; and

- (b) is not required to comply with any more rigorous formality.

10    (2) A person seeking to prove the origin of a specified foreign public document —

- (a) may be required to do so by means of a Convention certificate; but

- (b) is not required to comply with any more rigorous formality.

15    (3) This section applies despite any written law or rule of law to the contrary.

(4) In this section —

20     “more rigorous formality” means a formality that is more rigorous than placing a Convention certificate on, or attaching a Convention certificate to, a foreign public document;

“specified foreign public document” means a foreign public document falling within any of the following classes:

25     (a) any class of documents for which legalisation is or may be required by or under any written law or any practice before the date of Singapore’s accession to the Convention;

- (b) any class of documents that did not exist before the date of Singapore’s accession to the Convention.



### **Other modes of proof, etc., not affected**

**13.** Nothing in this Part prevents a foreign public document (or any aspect thereof) from being proven, produced, certified or accepted in any manner permitted by any other law.

## PART 3

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### CERTIFICATION OF SINGAPORE PUBLIC DOCUMENTS

#### **What is a Singapore public document**

**14.** In this Part, “Singapore public document” —

(a) means —

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(i) a document executed in Singapore and falling within any of the following categories:

(A) a document emanating from an authority or official connected with the courts or tribunals of Singapore, including a document emanating from a public prosecutor, a clerk of a court or a process-server;

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(B) an administrative document;

(C) a notarial act;

(D) an official certificate that is placed on a document signed by a person in his or her private capacity (for example, an official certificate recording the registration of a document or the fact that the document was in existence on a certain date, or an official or a notarial authentication of a signature); or

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(ii) a document (including a document that is not signed, sealed or stamped) that is prescribed to be a Singapore public document; but

(b) does not include any of the following documents:

- (i) a document executed by a diplomatic or consular agent;
- (ii) a prescribed private document.

5 **What is a competent authority**

15 **15.** In this Part, an authority specified in the first column of the Second Schedule is a competent authority in relation to the Singapore public documents specified opposite the authority in the second column of that Schedule.

10 **Certification of public document executed in Singapore**

**16.—**(1) Subject to section 17, a competent authority must issue a certificate for a Singapore public document on the request of —

- (a) the person who signed the document; or
- (b) any bearer of the document.

15 (2) The certificate must be —

- (a) numbered and dated in the prescribed manner;
- (b) in the form of the Model Certificate, subject to any prescribed modifications; and
- (c) placed on, or attached to, the Singapore public document or a copy thereof in the prescribed manner.

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(3) Regulations may provide for a certificate to be issued in electronic form, whether or not the underlying public document is also in electronic form.

**Grounds for refusing to issue certificate**

25 **17.—**(1) An authority must refuse to issue a certificate for a document under section 16 if any of the following grounds apply:

- (a) the document is not a Singapore public document;
- (b) there are reasonable grounds for the authority to believe that the document is forged or falsified;
- (c) the authority is not competent to issue the certificate;

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- (d) the person requesting for the certificate fails to provide any prescribed information or any other information required by the authority;
- (e) the prescribed fee is not paid;
- (f) any prescribed ground. 5

(2) A competent authority may refuse to issue a certificate for a public document if any of the following grounds apply:

- (a) the authority is unable to verify the authenticity of the signature, seal or stamp on the document;
- (b) any prescribed ground. 10

### **Register of certificates**

**18.—**(1) A competent authority must keep a register of every certificate it issues.

(2) The register must be kept in the prescribed manner and must record, in respect of each certificate — 15

- (a) the number and date of the certificate;
- (b) the name of the person who signed the certified Singapore public document and the capacity in which he or she acted;
- (c) if applicable, the name of the authority that affixed the seal or stamp on the certified Singapore public document; and 20
- (d) any other information that may be prescribed.

(3) Regulations must provide for the means by which a person may verify the authenticity of a document purporting to be a certificate issued by a competent authority.

(4) Regulations may provide for a joint register to be kept by 2 or more competent authorities. 25

## PART 4

## MISCELLANEOUS

**Amendment of Second Schedule**

5 **19.**—(1) The Minister may, by order in the *Gazette*, amend the Second Schedule.

(2) Without limiting subsection (1), an order under that subsection may specify, in the second column of the Second Schedule —

(a) all or a specified class of Singapore public documents opposite an authority in the first column; and

10 (b) the same class of Singapore public documents opposite 2 or more authorities in the first column.

**Regulations**

**20.** The Minister may make regulations —

15 (a) to prescribe any matter required or permitted to be prescribed under Part 3;

(b) to prescribe any fees for the purposes of Part 3; and

(c) generally for the purposes of this Act.

**Related amendments to other Acts**

20 **21.**—(1) The Evidence Act (Cap. 97, 1997 Ed.) is amended by inserting, immediately after section 80A, the following section:

**“Proof of signature, seal, etc., on foreign public document under Apostille Convention**

**80B.** To avoid doubt, sections 76 to 80A do not affect the operation of Part 2 of the Apostille Act 2020.”.

25 (2) Section 4(1) of the Singapore Academy of Law Act (Cap. 294A, 1997 Ed.) is amended by deleting the word “and” at the end of paragraph (*ka*), and by inserting immediately thereafter the following paragraph:

“(kb) to certify the following aspects of documents executed in or emanating from Singapore for the purposes of their production in another country:

- (i) the authenticity of the signature on the document;
- (ii) the capacity in which the person signing the document has acted;
- (iii) where appropriate, the identity of the seal or stamp that the document bears;”.

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## FIRST SCHEDULE

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### Section 2

#### THE HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF LEGALISATION FOR FOREIGN PUBLIC DOCUMENTS

The States signatory to the present Convention,

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Desiring to abolish the requirement of diplomatic or consular legalisation for foreign public documents,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

#### ARTICLE 1

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The present Convention shall apply to public documents which have been executed in the territory of one Contracting State and which have to be produced in the territory of another Contracting State.

For the purposes of the present Convention, the following are deemed to be public documents:

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- (a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server (“*huissier de justice*”);
- (b) administrative documents;
- (c) notarial acts;
- (d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the

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FIRST SCHEDULE — *continued*

registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply:

- 5           (a) to documents executed by diplomatic or consular agents;
- (b) to administrative documents dealing directly with commercial or customs operations.

## ARTICLE 2

10       Each Contracting State shall exempt from legalisation documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalisation means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.

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## ARTICLE 3

The only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4, issued by the competent authority of the State from which the document emanates.

20

However, the formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalisation.

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## ARTICLE 4

The certificate referred to in the first paragraph of Article 3 shall be placed on the document itself or on an “*allonge*”; it shall be in the form of the model annexed to the present Convention.

30       It may, however, be drawn up in the official language of the authority which issues it. The standard terms appearing therein may be in a second language also. The title “Apostille (Convention de La Haye du 5 octobre 1961)” shall be in the French language.

## ARTICLE 5

35       The certificate shall be issued at the request of the person who has signed the document or of any bearer.

FIRST SCHEDULE — *continued*

When properly filled in, it will certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which the document bears.

The signature, seal and stamp on the certificate are exempt from all certification. 5

## ARTICLE 6

Each Contracting State shall designate by reference to their official function, the authorities who are competent to issue the certificate referred to in the first paragraph of Article 3.

It shall give notice of such designation to the Ministry of Foreign Affairs of the Netherlands at the time it deposits its instrument of ratification or of accession or its declaration of extension. It shall also give notice of any change in the designated authorities. 10

## ARTICLE 7

Each of the authorities designated in accordance with Article 6 shall keep a register or card index in which it shall record the certificates issued, specifying: 15

- (a) the number and date of the certificate,
- (b) the name of the person signing the public document and the capacity in which he has acted, or in the case of unsigned documents, the name of the authority which has affixed the seal or stamp. 20

At the request of any interested person, the authority which has issued the certificate shall verify whether the particulars in the certificate correspond with those in the register or card index.

## ARTICLE 8

When a treaty, convention or agreement between two or more Contracting States contains provisions which subject the certification of a signature, seal or stamp to certain formalities, the present Convention will only override such provisions if those formalities are more rigorous than the formality referred to in Articles 3 and 4. 25

## ARTICLE 9

Each Contracting State shall take the necessary steps to prevent the performance of legalisations by its diplomatic or consular agents in cases where the present Convention provides for exemption. 30

## ARTICLE 10

The present Convention shall be open for signature by the States represented at the Ninth Session of the Hague Conference on Private International Law and Iceland, Ireland, Liechtenstein and Turkey. 35

FIRST SCHEDULE — *continued*

It shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

## ARTICLE 11

5 The present Convention shall enter into force on the sixtieth day after the deposit of the third instrument of ratification referred to in the second paragraph of Article 10.

The Convention shall enter into force for each signatory State which ratifies subsequently on the sixtieth day after the deposit of its instrument of ratification.

## 10 ARTICLE 12

Any State not referred to in Article 10 may accede to the present Convention after it has entered into force in accordance with the first paragraph of Article 11. The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Netherlands.

15 Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the six months after the receipt of the notification referred to in sub-paragraph (d) of Article 15. Any such objection shall be notified to the Ministry of Foreign Affairs of the Netherlands.

20 The Convention shall enter into force as between the acceding State and the States which have raised no objection to its accession on the sixtieth day after the expiry of the period of six months mentioned in the preceding paragraph.

## ARTICLE 13

25 Any State may, at the time of signature, ratification or accession, declare that the present Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect on the date of entry into force of the Convention for the State concerned.

At any time thereafter, such extensions shall be notified to the Ministry of Foreign Affairs of the Netherlands.

30 When the declaration of extension is made by a State which has signed and ratified, the Convention shall enter into force for the territories concerned in accordance with Article 11. When the declaration of extension is made by a State which has acceded, the Convention shall enter into force for the territories concerned in accordance with Article 12.



FIRST SCHEDULE — *continued*

## ARTICLE 14

The present Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 11, even for States which have ratified it or acceded to it subsequently. 5

If there has been no denunciation, the Convention shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Netherlands at least six months before the end of the five year period.

It may be limited to certain of the territories to which the Convention applies. 10

The denunciation will only have effect as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

## ARTICLE 15

The Ministry of Foreign Affairs of the Netherlands shall give notice to the States referred to in Article 10, and to the States which have acceded in accordance with Article 12, of the following: 15

- (a) the notifications referred to in the second paragraph of Article 6;
- (b) the signatures and ratifications referred to in Article 10;
- (c) the date on which the present Convention enters into force in accordance with the first paragraph of Article 11; 20
- (d) the accessions and objections referred to in Article 12 and the date on which such accessions take effect;
- (e) the extensions referred to in Article 13 and the date on which they take effect;
- (f) the denunciations referred to in the third paragraph of Article 14. 25

FIRST SCHEDULE — *continued*  
ANNEX TO THE CONVENTION

*Model of certificate*

The certificate will be in the form of a square with sides at least 9 centimetres long

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APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: .....

This public document

2. has been signed by .....

10

3. acting in the capacity of .....

4. bears the seal/stamp of .....

.....

Certified

5. at ..... 6. the .....

15

7. by .....

.....

8. N<sup>o</sup>: .....

9. Seal/Stamp:

10. Signature:

.....

Form box containing the apostille text and numbered items 1-10.

## SECOND SCHEDULE

Sections 15 and 19

COMPETENT AUTHORITIES FOR CERTIFYING  
SINGAPORE PUBLIC DOCUMENTS

<i>First column</i>	<i>Second column</i>	5
<i>Authority</i>	<i>Documents that authority may certify</i>	
1. Singapore Academy of Law	Any Singapore public document	

## EXPLANATORY STATEMENT

This Bill seeks to give effect to the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, done at the Hague on 5 October 1961 (the Convention). The Convention is also known as the Apostille Convention and its English text is set out in the First Schedule.

The purpose of the Convention is to abolish, as between Convention States, the requirement for legalisation when a public document emanating from one State (the originating State) is sought to be produced in another State (the destination State).

Legalisation is the formality by which the diplomatic or consular agents of the destination State certify the origin of a public document, i.e., the authenticity of the signature on the document, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp that the document bears. This certification will be recognised by the officials of the destination State and the document can then be given effect there.

In place of legalisation by the destination State, the Convention provides that a competent authority of the originating State may issue a certificate (also called an apostille) in respect of the document, and the destination State may give effect to a certified document according to its domestic law. The certificate only certifies the origin of the public document; it does not certify the contents of the document.

The Bill is drafted with reference to the text of the Convention, the Explanatory Report on the Convention dated 15 April 1961 by Yvon Loussouarn, and the *Apostille Handbook: A Handbook on the Practical Operation of the Apostille Convention* (2013) published by the Permanent Bureau of the Hague Conference on Private International Law.

## PART 1

## PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 relates to interpretation of certain terms used in the Bill.

Clause 3 sets out the purpose of the Bill.

Clause 4 provides that the Bill binds the Government.

## PART 2

## PROOF OF ORIGIN OF FOREIGN PUBLIC DOCUMENTS

Clause 5 provides that Part 2 applies to foreign public documents sought to be produced in Singapore for any purpose (i.e., Singapore is the destination State).

Clause 6 defines a foreign public document. A document executed in a Convention State is a foreign public document if it falls within the non-exhaustive categories of public documents set out in Article 1 of the Convention. Beyond those categories, it is the law of the Convention State from which a document emanates that determines whether the document is a foreign public document. Documents executed by diplomatic or consular agents are not considered foreign public documents.

Clause 7 defines the origin of a foreign public document, i.e., the authenticity of the signature on the document, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp that the document bears.

Clause 8 defines legalisation in relation to a foreign public document — it is the formality by which the diplomatic or consular agents of Singapore certify the origin of a foreign public document. The definition follows that in Article 2 of the Convention.

Clause 9 provides that legalisation is not required and may not be performed for any foreign public document. This gives effect to Articles 2 and 9 of the Convention.

Clause 10 defines a Convention certificate.

Clauses 11 and 12 facilitate the use of Convention certificates in relation to foreign public documents, but also make clear that the use of Convention certificates is generally not required.

Clause 11 provides that if a purported Convention certificate is placed on or attached to a purported foreign public document, it is presumed that the origin of the document is sufficiently proven. The presumption does not apply if the contrary is proven; if the purported Convention certificate is not in fact a Convention certificate; if the purported foreign public document is not in fact a foreign public document; or if the purported Convention certificate is defective in a way (e.g., it is not substantially in the form of the Model Certificate in the Convention) that affects its authenticity or reliability.

Clause 12 gives effect to Articles 3 and 8 of the Convention. The clause provides that, in general, a Convention certificate, or any more rigorous formality, is not required to prove or certify the origin of a foreign public document. A Convention certificate may only be required in respect of foreign public documents (a) for which legalisation is or may be required before Singapore acceded to the Convention, or (b) of a class that did not exist before Singapore acceded to the Convention. More rigorous formalities may not be required in these cases.

Clause 13 provides that other modes of proving a foreign public document are not affected by Part 2.

### PART 3

#### CERTIFICATION OF SINGAPORE PUBLIC DOCUMENTS

Part 3 relates to the certification of Singapore public documents for the purposes of the Convention.

Clause 14 defines a Singapore public document. A document executed in Singapore is a Singapore public document if it falls within the non-exhaustive categories of public documents set out in Article 1 of the Convention. The Minister may also prescribe what is or is not a Singapore public document. Documents executed by diplomatic or consular agents are not considered Singapore public documents.

Clause 15 and the Second Schedule designate the authorities that are competent to certify Singapore public documents, as required by Article 6 of the Convention.

Clause 16 requires a competent authority to issue a certificate for a Singapore public document on the request of the document's signatory or bearer, as required by Article 5 of the Convention. The certificate must be issued in accordance with the prescribed formalities. The formalities will be prescribed in accordance with the Convention's requirements, e.g., in Article 4, as well as practical guidance in the secondary material, e.g., the current and any future editions of the *Apostille Handbook*.

Clause 17 sets out the grounds on which an authority must or may decline to certify a document.

Clause 18 gives effect to Article 7 of the Convention. The clause requires a competent authority to keep a register of every certificate it issues. The clause also requires regulations to be made to provide for the means by which a person may verify the authenticity of a document purporting to be a certificate issued by a competent authority.

#### PART 4

##### MISCELLANEOUS

Clause 19 empowers the Minister to amend the Second Schedule.

Clause 20 empowers the Minister to make regulations.

Clause 21(1) makes a related amendment to the Evidence Act (Cap. 97) to clarify that the operation of Part 2 of the Bill is not affected by sections 76 to 80A of the Evidence Act, which relate to the proof of public documents.

Clause 21(2) makes a related amendment to the Singapore Academy of Law Act (Cap. 294A) to empower the Singapore Academy of Law to certify the origin of a document executed in or emanating from Singapore, whether for the purpose of the Convention or otherwise.

##### EXPENDITURE OF PUBLIC MONEY

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

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