

Administration of Muslim Law (Amendment) Bill

Bill No. 27/2017.

Read the first time on 3 July 2017.

A BILL

intituled

An Act to amend the Administration of Muslim Law Act (Chapter 3 of the 2009 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 is the Administration of Muslim Law (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Repeal of section 8**

2. Section 8 of the Administration of Muslim Law Act (called in this Act the principal Act) is repealed.

Amendment of section 21

3. Section 21 of the principal Act is amended —

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

“(1) The Majlis must ensure that minutes of every meeting are kept in the national language or in English.”; and

15 (b) by deleting the words “shall be entered in the minute book of the Majlis and” in subsection (3).

Amendment of section 34B

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

20 (a) by deleting the words “a deputy registrar” in subsection (1) and substituting the words “one or more deputy registrars”;

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

“(2) The registrar of the Court —

25 (a) may transact all of the business which may be transacted, and exercise all of the jurisdiction and powers which may be exercised, by a president of the Court under sections 40, 43A, 43B, 47(5) and 50; and

- (b) has such other jurisdiction, powers and duties as may be prescribed in this Act or under any rules made under section 145.”;
- (c) by inserting, immediately after the words “Subject to this Act, the” in subsection (3), the word “jurisdiction,”; and 5
- (d) by deleting the words “the deputy registrar” in subsection (3) and substituting the words “a deputy registrar”.

Amendment of section 35

5. Section 35 of the principal Act is amended — 10

- (a) by deleting the word “The” in subsection (2) and substituting the words “Subject to subsection (2A), the”;
- (b) by inserting, immediately after subsection (2), the following subsection:

“(2A) Where any action or proceeding mentioned in subsection (2) is commenced on or after the date of commencement of section 5(b) of the Administration of Muslim Law (Amendment) Act 2017, the Court has jurisdiction under that subsection to hear and determine that action or proceeding only if either 15
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- (a) is domiciled in Singapore at the time that action or proceeding is commenced; or

- (b) is habitually resident in Singapore for a period of at least 3 years immediately before that action or proceeding is commenced.”; and 25

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

“(4) For the purposes of subsection (2A), a person who is a citizen of Singapore is presumed to be domiciled in Singapore, until the contrary is proved.”. 30

Amendment of section 43

6. Section 43 of the principal Act is amended by deleting the words “and of a court under Division 1 of Part XXI of the Criminal Procedure Code 2010” in paragraph (e).

5 **New sections 43A and 43B**

7. The principal Act is amended by inserting, immediately after section 43, the following sections:

“Court may refer parties for counselling, etc.

10 **43A.**—(1) The Court before which any matter mentioned in section 35(2), 46B, 47, 48, 49, 51 or 52 is heard may order or advise any of the parties or their children to do either or both of the following, if the Court considers that doing so is in the interests of any of the parties or their children:

15 (a) attend counselling provided by a person the Court appoints;

(b) participate in a family support programme or activity the Court specifies.

(2) Where the Court has made an order under subsection (1), the parties must comply with the order.

20 (3) Where a party fails to comply with an order made under subsection (1), the Court may make such further orders as the Court thinks fit.

(4) The further orders that the Court may make under subsection (3) include the following:

25 (a) an order that the proceedings be stayed until all of the parties or their children who have been ordered by the Court under subsection (1) to attend counselling, or to participate in a family support programme or activity, have done so;

30 (b) such order as to costs as the Court thinks appropriate against the party who fails to comply with an order made by the Court under subsection (1).

(5) Anything said, any document prepared, and any information provided, by any person for the purposes of or in the course of any counselling or any family support programme or activity under this section is not to be admitted in evidence in the Court or any court.

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(6) No liability shall lie personally against any person providing any counselling or conducting any family support programme or activity for the purposes of subsection (1), who, acting in good faith and with reasonable care, does or omits to do anything for the purposes of that counselling or family support programme or activity (as the case may be).

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(7) In this section, “family support programme or activity” means any programme or activity carried out for the purpose of addressing or resolving any relationship issue or relationship problem between spouses or former spouses, between siblings or between parent and child.

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Examination and assessment of child

43B.—(1) In any proceedings before the Court involving the custody or welfare of a child, the Court may, on the application of any party to those proceedings or on its own motion, appoint a registered medical practitioner, psychologist, counsellor, social worker or mental health professional to examine and assess the child for the purposes of preparing expert evidence for use in those proceedings.

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(2) Where a registered medical practitioner, psychologist, counsellor, social worker or mental health professional who is not appointed by the Court under subsection (1) examines or assesses the child, no evidence arising out of that examination or assessment may be adduced in those proceedings without the leave of the Court.

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(3) A registered medical practitioner, psychologist, counsellor, social worker or mental health professional appointed under subsection (1) may make such enquiries relevant to the examination and assessment of the child as may be provided for under rules made under section 145.”

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Repeal and re-enactment of section 46

8. Section 46 of the principal Act is repealed and the following section substituted therefor:

“Sittings in camera, etc.

5 **46.**—(1) Subject to subsection (2), all matters and proceedings in the Court are to be heard in camera.

(2) The Court has power to hear any matter or part of a matter in public, if the Court is satisfied that it is expedient in the interests of justice, or for other sufficient reason to do so.”.

10 **New section 46A**

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

“Activities to be attended before making application to Court for divorce

15 **46A.**—(1) A prescribed party in a prescribed circumstance must attend the applicable prescribed activity within the prescribed time.

(2) For the purposes of subsection (1), rules made under section 145 may —

20 (a) prescribe the applicable prescribed activity for a prescribed party in a prescribed circumstance; and

(b) prescribe different times for different prescribed parties in different prescribed circumstances.

25 (3) No application for a divorce in accordance with the Muslim law is to be made to the Court, and no cross-application is to be made in proceedings for a divorce in accordance with the Muslim law, by a prescribed party in a prescribed circumstance, unless the prescribed party —

(a) has attended the applicable prescribed activity;

30 (b) is an excluded party; or

(c) is allowed by the Court under subsection (4) to do so.

(4) Despite subsection (3)(a) and (b), even though a prescribed party in a prescribed circumstance has not attended the applicable prescribed activity and is not an excluded party, the Court may, upon the application of the prescribed party, and on such terms as the Court thinks fit, allow the prescribed party to apply to the Court for a divorce in accordance with the Muslim law. 5

(5) The Court hearing any proceedings for a divorce in accordance with the Muslim law may, if the Court considers that doing so is in the interests of the parties to the marriage or any child of the marriage, at any stage in those proceedings order either or both of the parties to the marriage to attend a prescribed activity. 10

(6) Where any party who is required or ordered under this section to attend a prescribed activity fails to do so, the Court may make such orders as the Court thinks fit. 15

(7) Without prejudice to the generality of subsection (6), the orders that the Court may make under that subsection include the following orders:

(a) a stay of the proceedings for a divorce in accordance with the Muslim law until the defaulting party in that subsection attends the prescribed activity; 20

(b) such order as to costs as the Court thinks appropriate against the defaulting party in that subsection.

(8) Except as provided in subsection (9), anything said, any document prepared, and any information provided, by any person for the purposes of or in the course of attending a prescribed activity is not to be admitted in evidence in the Court or any court. 25

(9) A parenting plan prepared during a prescribed activity may, with the consent of every party who prepared it, be admitted in evidence in the Court. 30

(10) The Minister may appoint any person to conduct a prescribed activity.

(11) No liability shall lie personally against any person appointed under subsection (10) to conduct a prescribed activity who, acting in good faith and with reasonable care, does or omits to do anything for the purposes of that prescribed activity.

(12) In this section —

“applicable prescribed activity”, in relation to a prescribed party in a prescribed circumstance, means the particular type of prescribed activity that the prescribed party is required under subsection (1) to attend;

“application for a divorce in accordance with the Muslim law” includes an application under section 102(5)(b);

“cross-application”, in relation to proceedings for a divorce in accordance with the Muslim law, includes —

(a) an application under section 102(5)(b) made while those proceedings are pending; or

(b) if those proceedings are proceedings relating to an application under section 102(5)(b) — an application for a divorce in accordance with the Muslim law that is made while those proceedings are pending;

“excluded party” means a prescribed party who is prescribed by rules made under section 145 as exempt from subsection (1);

“parenting plan” means a proposal prepared by either party to a marriage, or an agreement prepared by both parties to a marriage, on the arrangements for the welfare of every dependent child of the marriage;

“prescribed activity” means an activity (such as counselling) that is prescribed, by rules made under section 145, for the purposes of this section;

“prescribed circumstance” means a circumstance, prescribed by rules made under section 145, in which

a prescribed party is required under subsection (1) to attend a prescribed activity;

“prescribed party” means a party to a marriage who is prescribed, by rules made under section 145, for the purposes of this section;

“proceedings for a divorce in accordance with the Muslim law” includes any proceedings relating to an application under section 102(5)(b).”.

New section 46B

10. The principal Act is amended by inserting, immediately before section 47, the following section:

“Divorce by husband’s pronouncement

46B.—(1) A married man may apply to the Court for a divorce in accordance with the Muslim law.

(2) Upon receiving an application under subsection (1), the Court must cause a summons to be served on the wife concerned.

(3) If the man pronounces a divorce, and the Court is satisfied that the divorce is valid in accordance with the Muslim law, the Court must, on payment of the prescribed fees, cause the divorce to be registered.”.

Amendment of section 47

11. Section 47 of the principal Act is amended —

(a) by deleting the words “shall summon the husband before the Court” in subsection (2) and substituting the words “must cause a summons to be served on the husband”; and

(b) by deleting the words “or the registrar of the Court” in subsection (5).

Amendment of section 50

12. Section 50 of the principal Act is amended —

- (a) by deleting the words “or the registrar of the Court” in subsections (1), (3), (4) and (7);
- 5 (b) by deleting the words “or the registrar of the Court, as the case may be,” in subsection (2); and
- (c) by deleting the words “the Court or the registrar may” in subsection (4) and substituting the words “the Court may”.

New sections 54A and 54B

10 13. The principal Act is amended by inserting, immediately after section 54, the following sections:

“Unauthorised audio or visual recording in Court

54A.—(1) The Court may, in its discretion, grant or refuse permission to use in or bring into the Court a recording device.

15 (2) The Court may grant permission under subsection (1) subject to such conditions as the Court thinks proper with respect to the use of any recording made pursuant to that permission.

(3) The Court may, in its discretion, withdraw or amend any permission granted under subsection (1), either generally or in relation to any particular part of the proceedings in the Court.

20 (4) A person shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both, if the person —

- 25 (a) uses in or brings into the Court any recording device without permission under subsection (1); or
- (b) uses any recording made pursuant to permission under subsection (1) in contravention of any conditions of that permission.

30 (5) This section does not apply to the making or use of any audio or visual recording for the purposes of official transcripts of proceedings or any other purpose authorised by the Court.

(6) In this section, a recording is made pursuant to permission under subsection (1) if the recording is —

- (a) an audio or visual recording of proceedings in the Court made by means of a recording device for which that permission was granted; or
- (b) any recording derived directly or indirectly from that audio or visual recording.

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(7) In this section —

“audio or visual recording” means an audio recording, a visual recording, or a recording that comprises both an audio recording and a visual recording;

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“recording device” means any audio recorder, electronic device or other instrument for making an audio or visual recording.

Contemptuous behaviour

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54B.—(1) The Court may by oral order exclude from any proceeding in the Court any person whose behaviour, in the opinion of the Court, constitutes any offence mentioned in the following paragraphs, whether or not that person is charged with that offence:

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- (a) an offence under section 54A(4);
- (b) any offence under section 175, 178, 179, 180 or 228 of the Penal Code (Cap. 224) that is committed before the Court in that proceeding.

(2) Any member or officer of the Court, and any police officer, may take such steps as are reasonably necessary to enforce an exclusion under subsection (1).”.

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Amendment of section 55

14. Section 55(3) of the principal Act is amended by deleting the words “2 years” and substituting the words “3 years”.

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Amendment of section 56B

15. Section 56B of the principal Act is amended —

(a) by deleting the words “the registrar or deputy registrar” in subsection (1) and substituting the words “the registrar or a deputy registrar”;

(b) by deleting the words “No officer of the Court or any other person expressly authorised by the Court charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Court shall be” in subsection (2) and substituting the words “An officer of the Court or an Appeal Board, or any other person expressly authorised by the Court or Appeal Board, charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Court or Appeal Board, as the case may be, is not”; and

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

“(4) A child representative appointed to represent the interests of a child in any proceedings involving the child, or the custody and welfare of the child, is not liable to be sued for an act done by the child representative for the purposes of those proceedings, or any mediation or other alternative dispute resolution process related to those proceedings, if the act —

(a) was done in good faith; and

(b) did not involve any fraud or wilful misconduct.

(5) Where an individual (being a registered medical practitioner, psychologist, counsellor, social worker or mental health professional) is appointed by the Court to examine or assess a child for the purposes of preparing expert evidence for use in any proceedings involving the custody or welfare of that child, the individual is not liable to be sued for an act done by

the individual for the purposes of the examination or assessment, or the preparation of the expert evidence for use in those proceedings, if the act —

(a) was done in good faith; and

(b) did not involve any fraud or wilful misconduct.”. 5

Amendment of section 58

16. Section 58 of the principal Act is amended —

(a) by inserting, immediately after subsection (3), the following subsection: 10

“(3A) The appointment, on or after the date of commencement of section 16(a) of the Administration of Muslim Law (Amendment) Act 2017, of a trustee of a wakaf or nazar am, under an instrument or declaration creating, governing or affecting the wakaf or nazar am, is void unless the trustee was appointed with the prior approval in writing of the Majlis.”; 15

(b) by deleting subsection (4) and substituting the following subsections:

“(4) The trustees of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am, and any mutawalli appointed under subsection (4A), (4B) or (5) for a wakaf or nazar am, must — 20

(a) manage the wakaf or nazar am subject to the provisions of this Act; 25

(b) comply with the provisions of any rules made under section 145(1) for the purposes of this section and, in the case of the trustees of a wakaf or a mutawalli appointed for a wakaf, any rules made under section 64(12); and 30

(c) comply with all the terms and conditions imposed by the Majlis on the trustees concerning the trustees' appointments, or on the mutawalli concerning the mutawalli's appointment, as the case may be.

(4A) The Majlis has power to remove, and to appoint a mutawalli in the place of or in addition to, an existing trustee of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am, if it appears to the Majlis that —

(a) the wakaf or nazar am has been mismanaged;

(b) the trustee —

(i) has been convicted, on or after the date of commencement of section 16(b) of the Administration of Muslim Law (Amendment) Act 2017, of any offence under section 64(11);

(ii) has failed to comply with any provision of any rules made under section 145(1) for the purposes of this section or, in the case of a trustee of a wakaf, any rules made under section 64(12); or

(iii) has failed to comply with any term or condition imposed by the Majlis on the trustee concerning the trustee's appointment; or

(c) it would be to the advantage of the wakaf or nazar am to appoint a mutawalli.

(4B) The Majlis has power to appoint a mutawalli for a wakaf or nazar am if it appears to the Majlis that

there is no trustee appointed for the management of the wakaf or nazar am.”; and

- (c) by inserting, immediately after subsection (5), the following subsections:

“(6) Without affecting the generality of subsection (5), the Majlis has power to remove any mutawalli appointed by the Majlis for a wakaf or nazar am, if it appears to the Majlis that — 5

(a) the wakaf or nazar am has been mismanaged; 10

(b) the mutawalli —

(i) has been convicted, on or after the date of commencement of section 16(c) of the Administration of Muslim Law (Amendment) Act 2017, of any offence under section 64(11); 15

(ii) has failed to comply with any provision of any rules made under section 145(1) for the purposes of this section or, in the case of a mutawalli appointed for a wakaf, any rules made under section 64(12); or 20

(iii) has failed to comply with any term or condition imposed by the Majlis on the mutawalli concerning the mutawalli’s appointment; or 25

(c) it would be to the advantage of the wakaf or nazar am to appoint another mutawalli.

(7) A court must not entertain or proceed with any proceedings relating to the appointment or removal of either of the following:

(a) a trustee of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am;

(b) a mutawalli appointed by the Majlis.

(8) Subsections (3A), (4), (4A) and (7)(a) apply to a trustee of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am, regardless whether the instrument or declaration was made before, on or after the date of commencement of section 16(c) of the Administration of Muslim Law (Amendment) Act 2017.”.

Amendment of section 61

17. Section 61 of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

“(3) The Majlis may establish and maintain for each wakaf or nazar am a separate sinking fund for that wakaf or nazar am, for one or more of the following purposes:

(a) improving or maintaining any immovable property belonging to that wakaf or nazar am, including carrying out, in relation to that immovable property, any building operation, repair, demolition or installation work;

(b) purchasing any property or asset for that wakaf or nazar am;

(c) such other purposes related to that wakaf or nazar am as may be prescribed by rules made under subsection (6).

(4) Despite subsections (1) and (2) and any provision to the contrary in any instrument or declaration creating, governing or

affecting a wakaf or nazar am, the Majlis may direct that a portion of the net annual income of a wakaf or nazar am be transferred to the sinking fund established and maintained under subsection (3) for that wakaf or nazar am.

(5) The percentage of the net annual income of a wakaf or nazar am that is to be transferred to the sinking fund under subsection (4) is to be determined by the Majlis after consulting the mutawalli of the wakaf or nazar am. 5

(6) The Majlis may, with the approval of the Minister, make rules — 10

(a) to prescribe the other purposes related to a wakaf or nazar am for which a sinking fund established or maintained for that wakaf or nazar am may be used; and

(b) to provide generally for carrying out the purposes of this section.”. 15

Amendment of section 74

18. Section 74 of the principal Act is amended —

(a) by deleting subsection (3) and substituting the following subsections: 20

“(3) The trustees of a mosque appointed under a written instrument, and any mutawalli appointed under subsection (3A), (3B) or (4) for a mosque, must —

(a) manage the mosque subject to the provisions of this Act; 25

(b) comply with the provisions of any rules made under section 145(1) for the purposes of this section; and

(c) comply with all the terms and conditions imposed by the Majlis on the trustees concerning the trustees’ appointments, or on the mutawalli concerning the 30

mutawalli's appointment, as the case may be.

(3A) The Majlis has power to remove, and to appoint a mutawalli in the place of or in addition to, any existing trustee of a mosque appointed under a written instrument, if it appears to the Majlis that —

(a) the mosque has been mismanaged;

(b) the trustee —

(i) has failed to comply with any provision of any rules made under section 145(1) for the purposes of this section; or

(ii) has failed to comply with any term or condition imposed by the Majlis on the trustee concerning the trustee's appointment; or

(c) it would be to the advantage of the mosque to appoint a mutawalli.

(3B) The Majlis has power to appoint a mutawalli for a mosque if it appears to the Majlis that there is no trustee appointed for the management of the mosque.”; and

(b) by inserting, immediately after subsection (4), the following subsections:

“(5) Without affecting the generality of subsection (4), the Majlis has power to remove any mutawalli appointed by the Majlis for a mosque, if it appears to the Majlis that —

(a) the mosque has been mismanaged;

(b) the mutawalli —

(i) has failed to comply with any provision of any rules made under

section 145(1) for the purposes of this section; or

(ii) has failed to comply with any term or condition imposed by the Majlis on the mutawalli concerning the mutawalli's appointment; or

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(c) it would be to the advantage of the mosque to appoint another mutawalli.

(6) Despite anything in subsections (3A), (4) and (5) and section 58(4A), (5) and (6), the following apply in relation to a mosque established by a wakaf:

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(a) where the appointment of an individual as a trustee or mutawalli of the mosque is contingent on the appointment of that individual as a trustee or mutawalli of the wakaf, the individual is removed as a trustee or mutawalli of the mosque if the individual is removed under section 58(4A), (5) or (6) as a trustee or mutawalli of the wakaf;

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(b) where the appointment of an individual as a trustee or mutawalli of the wakaf is contingent on the appointment of that individual as a trustee or mutawalli of the mosque, the individual is removed as a trustee or mutawalli of the wakaf if the individual is removed under subsection (3A), (4) or (5) as a trustee or mutawalli of the mosque.

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(7) Subsections (3), (3A) and (6) apply to a trustee of a mosque appointed under a written instrument, regardless whether the instrument was made before, on or after the date of commencement of section 18(b) of the Administration of Muslim Law (Amendment) Act 2017.

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(8) Subsection (6) applies to a trustee of a wakaf appointed under an instrument or declaration creating, governing or affecting the wakaf, regardless whether the instrument or declaration was made before, on or after the date of commencement of section 18(b) of the Administration of Muslim Law (Amendment) Act 2017.”.

Amendment of section 77

19. Section 77(1) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) for the purpose of building and maintaining mosques, and premises or facilities for conducting religious education, in Singapore and for connected purposes, including —

(i) any extension, alteration, reconstruction or restoration of the whole or part of any existing mosque, or any existing premises or facilities for conducting religious education, and any other building works, that the Majlis may approve; and

(ii) any purchase of any land, obtaining or renewal of any lease, tenancy or other interest in land, or obtaining or renewal of a licence to occupy land, that the Majlis may approve;”.

Amendment of section 79

20. Section 79 of the principal Act is amended —

(a) by deleting the words “not exceeding 12 months” in subsection (1) and substituting the words “specified by him in the form”; and

(b) by deleting subsection (4) and substituting the following subsection:

“(4) Where an employee has exercised an option under subsection (1), his employer is liable, on the

expiry of the period for which the certificate is in force, to pay contributions to the Mosque Building and Mendaki Fund in respect of that employee, unless that employee again exercises an option under subsection (1) and a fresh certificate is issued under subsection (2).”.

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Amendment of section 82

21. Section 82 of the principal Act is amended by deleting the word “trustees” in subsections (1), (2), (3) and (5) and substituting in each case the word “mutawallis”.

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Amendment of section 88E

22. Section 88E(4) of the principal Act is amended by deleting the words “to the Majlis” and substituting the words “into the Consolidated Fund”.

New section 94A

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23. The principal Act is amended by inserting, immediately after section 94, the following section:

“Marriage preparation programme

94A.—(1) This section applies to every person within a class of persons prescribed by rules made under section 145 as persons who must attend a marriage preparation programme.

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(2) An application cannot be made to a Kadi or Naib Kadi for the solemnization of the marriage of a person to whom this section applies, unless the person satisfies the Kadi or Naib Kadi (as the case may be) that the person, and the other party to the proposed marriage, have attended together and completed a marriage preparation programme.

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(3) In this section, “marriage preparation programme” means a marriage preparation programme which satisfies the description specified in the rules made under section 145.”.

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New section 94B

24. The principal Act is amended by inserting, immediately before section 95, the following section:

5 **“Consent to application for solemnization of marriage of minor**

94B.—(1) An application cannot be made to a Kadi or Naib Kadi for the solemnization of the marriage of a minor without the consent of the appropriate person or persons mentioned in the Fourth Schedule.

10 (2) If a Kadi or Naib Kadi is satisfied that the consent of an appropriate person mentioned in the Fourth Schedule cannot be obtained by reason of that person being absent, inaccessible or under any disability, the Kadi or Naib Kadi —

15 (a) must dispense with the consent of that person, if the consent of any other person is required; and

 (b) may dispense with the consent of that person, if the consent of no other person is required.

20 (3) If an appropriate person mentioned in the Fourth Schedule refuses to give that person’s consent, a Kadi or Naib Kadi may, on an application to the Kadi or Naib Kadi, dispense with the consent of that person.

25 (4) Before dispensing with the consent of a person mentioned in subsection (3), the Kadi or Naib Kadi must give that person an opportunity to show cause why that person’s consent should not be dispensed with.”.

Amendment of section 95

25. Section 95 of the principal Act is amended by deleting subsections (1), (2) and (3) and substituting the following subsections:

30 “(1) Subject to the provisions of this Act, a marriage may be solemnized according to the Muslim law —

 (a) by the wali of the woman to be wedded;

(b) by a Kadi or Naib Kadi, at the request of the wali of the woman to be wedded; or

(c) by a Kadi, where —

(i) there is no wali of the woman to be wedded; or

(ii) the wali of the woman to be wedded refuses his consent to the marriage, on grounds that the Kadi does not consider satisfactory.

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(2) On or after the date of commencement of section 25 of the Administration of Muslim Law (Amendment) Act 2017, both of the following conditions must be satisfied before the wali of the woman to be wedded can solemnize the marriage:

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(a) the parties to be wedded have applied to a Kadi or Naib Kadi for, and he has given, his written consent to the solemnization of the marriage by the wali;

(b) a Kadi or Naib Kadi is present during the solemnization of the marriage by the wali.

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(3) Before solemnizing a marriage or giving his written consent to the solemnization of a marriage by a wali, a Kadi or Naib Kadi must satisfy himself after inquiry that there is no lawful obstacle, according to the Muslim law or this Act, to the marriage.”.

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Amendment of section 100

26. Section 100 of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) The Registrar —

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(a) must maintain a Register of Marriages containing such records and information as the Registrar may determine on every marriage solemnized and registered under this Act; and

(b) may keep the Register of Marriages in such form as the Registrar may determine.

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(2) The Registrar —

- (a) must maintain a Register of Revocation of Divorces containing such records and information as the Registrar may determine on every revocation of divorce registered under this Act; and
- (b) may keep the Register of Revocation of Divorces in such form as the Registrar may determine.”.

Amendment of section 101

27. Section 101 of the principal Act is amended by deleting subsection (7) and substituting the following subsection:

“(7) The Registrar must —

- (a) sign and date any correction made in the certificate of marriage or the certificate of revocation of divorce (as the case may be); and
- (b) authenticate any correction made in the Register of Marriages or Register of Revocation of Divorces (as the case may be).”.

Amendment of section 102

28. Section 102 of the principal Act is amended —

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

“(1) A Kadi or Naib Kadi —

- (a) must register a marriage (which was solemnized by him or in his presence) immediately after the solemnization of the marriage; and
- (b) may, at his option, register, or solemnize and register, a marriage —
- (i) at his house or office;
- (ii) at the house of the parties, or one of the parties, to the marriage; or

- (iii) at any other place proposed by the parties to the marriage.”;
- (b) by deleting the words “marriage or” wherever they appear in subsection (2);
- (c) by deleting the words “and which has not been registered in accordance with subsection (1)” in subsection (2); and 5
- (d) by deleting the words “within 7 days of” in subsections (2)(a) and (5) and substituting in each case the words “within 7 days beginning on the date of”.

Amendment of section 103

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29. Section 103 of the principal Act is amended —

- (a) by inserting, immediately after the words “solemnized by a Kadi or Naib Kadi,” in subsection (1), the words “or by the wali of the woman to be wedded in the presence of a Kadi or Naib Kadi,”; 15
- (b) by deleting the words “in the register of marriages and also in the certificate of marriage attached to the register” in subsection (1) and substituting the words “in the Register of Marriages and also in the certificate of marriage”; and
- (c) by deleting subsection (2) and substituting the following subsection: 20
 - “(2) Subject to section 102, a Kadi may, at any time within 7 days after a revocation of divorce, register the revocation of divorce by entering the particulars of the revocation of divorce in the Register of Revocation of Divorces and in the certificate of revocation of divorce.”. 25

Amendment of section 106

30. Section 106(2) of the principal Act is amended —

- (a) by deleting the words “the register” and substituting the words “the Register of Marriages or Register of Revocation of Divorces (as appropriate)”; and
- (b) by deleting the word “signed” and substituting the word “authenticated”.

Amendment of section 107

31. Section 107 of the principal Act is amended by deleting the words “marriage or” wherever they appear (including the section heading).

Amendment of section 111

32. Section 111 of the principal Act is amended —

- (a) by deleting the words “, or by any nomination under section 49M(2) of the Insurance Act (Cap. 142),” in subsection (1); and
- (b) by deleting the words “, other than sections 49M and 61 thereof” in subsection (2)(aa).

Repeal of sections 116 and 117 and re-enactment of section 116

33. Sections 116 and 117 of the principal Act are repealed and the following section substituted therefor:

“Administration of estate of Muslim dying intestate

116.—(1) In granting letters of administration to the estate of a Muslim who dies intestate, the court may if it thinks fit grant letters of administration to any next-of-kin of the Muslim or any other person entitled to a share in the estate under the Muslim law.

(2) This section does not affect the power given to the court by section 18 of the Probate and Administration Act (Cap. 251).”.

Repeal of section 125

34. Section 125 of the principal Act is repealed.

Amendment of section 141

35. Section 141 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection: 5

“(1) Each of the following is a public servant within the meaning of the Penal Code (Cap. 224):

(a) every president of the Syariah Court;

(b) every ad-hoc president of the Syariah Court; 10

(c) the registrar of the Syariah Court;

(d) every deputy registrar of the Syariah Court;

(e) every member of an Appeal Board;

(f) the Registrar; 15

(g) every Kadi;

(h) every Naib Kadi.”;

(b) by inserting, immediately after the words “before the Syariah Court” in subsection (2), the words “, before the Appeal Board”; and 20

(c) by deleting the section heading and substituting the following section heading:

“Public servants and judicial proceedings”.

Repeal and re-enactment of sections 143 and 144

36. Sections 143 and 144 of the principal Act are repealed and the following sections substituted therefor: 25

“Inspection and search

143.—(1) Any person may, upon application to the Registrar and upon payment of the prescribed fee, obtain a copy of or

extract from any information contained in the Register of Marriages or Register of Revocation of Divorces (including a copy or extract that is certified by the Registrar to be a true copy or extract).

5 (2) The Register of Divorces, and the general index of that Register, are to be open to inspection by any person upon payment of the prescribed fee.

10 (3) A president or the registrar of the Syariah Court must furnish a copy of an entry in the Register of Divorces, certified under the signature and seal of office of the president of the Syariah Court, to any person requiring that copy, upon the payment of the prescribed fee by that person.

Proof

15 **144.**—(1) Each of the following, if certified by the Registrar to be a true copy or extract, is in any proceedings in any court or tribunal in Singapore admissible in evidence as of equal validity with the original document containing the information or the original record (as the case may be):

20 (a) a copy of or extract from any information contained in the Register of Marriages or Register of Revocation of Divorces;

25 (b) a copy of or extract from any record contained in the Register of Marriages or Register of Revocation of Divorces (including a copy of or extract from any record produced from a microfilm or digital image).

30 (2) The Register of Divorces, and any copy of an entry in that Register certified under the signature and seal of office of any president of the Syariah Court to be a true copy, is prima facie evidence in any court or tribunal in Singapore of the dates and acts contained or set out in that Register or copy.”

Amendment of section 145

37. Section 145(2) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraphs:

- “(b) prescribing the jurisdiction, powers and duties of the registrar of the Syariah Court mentioned in section 34B(2)(b); 5
- (ba) providing for any matter concerning an appeal from a decision of the registrar of the Syariah Court;
- (bb) providing for the appointment of a child representative to represent the interests of a child in any proceedings involving the child, or the custody and welfare of the child, and for the remuneration of the child representative; and” 10

New Fourth Schedule

38. The principal Act is amended by inserting, immediately after the Third Schedule, the following Schedule: 15

“FOURTH SCHEDULE

Section 94B

CONSENTS REQUIRED FOR MARRIAGE OF MINOR

PART 1 20

WHERE MINOR IS LEGITIMATE

<i>Circumstances</i>	<i>Person or persons whose consent is required</i>	
1. Where both parents are living:		
(a) if parents are living together	both parents;	25
(b) if parents are divorced or separated by order of court or by agreement	(i) the parent to whom the custody of the minor is committed by order of any court or by the agreement; or	30

<i>Circumstances</i>	<i>Person or persons whose consent is required</i>
5	(ii) if the custody of the minor is so committed to both parents, or to one parent during part of the year and to the other parent during the rest of the year, both parents;
10	(c) if one parent has been deserted by the other the parent who has been deserted; (d) if both parents have been deprived of custody of the minor by order of court the person to whose custody the minor is committed by order of court.
15	2. Where one parent is dead:
20	(a) if there is no other guardian the surviving parent; (b) if a guardian has been appointed by the deceased parent (i) the surviving parent and the guardian, if acting jointly; or (ii) the surviving parent or the guardian, if the parent or guardian is the sole guardian of the minor.
25	3. Where both parents are dead the guardian or guardians appointed by the deceased parents, or by the court, under the Guardianship of Infants Act (Cap. 122).

PART 2

WHERE MINOR IS ILLEGITIMATE

<i>Circumstances</i>	<i>Person whose consent is required</i>	
1. If the mother of the minor is alive	the mother or, if she has by order of court been deprived of the custody of the minor, the person to whom the custody of the minor has been committed by order of court.	5 10
2. If the mother of the minor is dead	the guardian appointed by the mother, or by the court, under the Guardianship of Infants Act.”.	15

Miscellaneous amendments

39. The principal Act is amended —

- (a) by deleting the word “Secretary” wherever it appears in the following provisions and substituting in each case the words “Chief Executive”:
- Sections 9(b), 16(2), 18(1) to (4), 20 (including the section heading), 23(1) and (2), 24(1) and 32(1) and (2), and paragraph 10 of the Second Schedule; and
- (b) by deleting the words “, the Chief Executive and the Secretary” in section 25(1) and substituting the words “and the Chief Executive”.

Saving and transitional provisions

40.—(1) Despite section 14, section 55(3) of the principal Act as in force immediately before the date of commencement of section 14 continues to apply to every person who, on that date, serves on the panel of persons mentioned in section 55(3) of the principal Act, until the expiry of that person’s term on that panel.

(2) Despite section 20(a), section 79(1) of the principal Act as in force immediately before the date of commencement of section 20(a)

continues to apply to every option under section 79(1) of the principal Act that a Muslim employee exercises before that date.

- 5 (3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by rules, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Administration of Muslim Law Act (Cap. 3) for the following main purposes:

- (a) to abolish the office of the Secretary of the Majlis Ugama Islam, Singapura (the Majlis), and to transfer certain duties and powers of the Secretary to the Chief Executive of the Majlis (the Chief Executive);
- (b) to update certain practices relating to the keeping of minutes of meetings of the Majlis;
- (c) to facilitate the appointment of more than one deputy registrar of the Syariah Court, and to restate the jurisdiction, powers and duties of the registrar and every deputy registrar of the Syariah Court;
- (d) to require either party to a marriage to be domiciled in Singapore, or to be habitually resident in Singapore for at least 3 years, before the Syariah Court has jurisdiction to hear and determine any action or proceeding mentioned in section 35(2);
- (e) to enhance the powers of the Syariah Court —
 - (i) in relation to matrimonial proceedings; and
 - (ii) to regulate behaviour in the Syariah Court, and the use of any recording of proceedings in the Syariah Court;
- (f) to enable a married man to apply to the Syariah Court for a divorce in accordance with the Muslim law before pronouncing a divorce in the Syariah Court;
- (g) to extend the maximum term of office of a person, who serves on the panel of persons from whom an Appeal Board may be constituted under section 55, from 2 years to 3 years;

- (h) to provide for the protection of certain persons from being sued for certain acts done in the discharge of their duties;
- (i) to enhance the powers of the Majlis to administer any wakaf, any nazar am, and any mosque in Singapore;
- (j) to extend the purposes for which moneys in the Mosque Building and Mendaki Fund may be used in relation to building works;
- (k) to require any couple that falls within certain prescribed classes of persons to attend together and complete a marriage preparation programme, before the couple can apply for the solemnization according to the Muslim law of their marriage;
- (l) to prevent an application for the solemnization according to the Muslim law of the marriage of a minor from being made without the consent of the appropriate parent or guardian of the minor;
- (m) to introduce measures to ensure that there is no lawful obstacle, according to the Muslim law or the Administration of Muslim Law Act, to a marriage, before the marriage is solemnized according to the Muslim law;
- (n) to remove the existing requirement for the Registrar of Muslim Marriages to maintain a Register of Marriages and a Register of Revocation of Divorces in hard copy;
- (o) to provide for a marriage to be registered immediately after the solemnization of the marriage according to the Muslim law;
- (p) to enable a Muslim person to make a revocable nomination under section 49M(2) of the Insurance Act (Cap. 142);
- (q) to restate the law on who the court may grant letters of administration to, in a case where a Muslim person dies intestate;
- (r) to abolish the existing statutory treatment of ownership of household property;
- (s) to provide for every president, every ad-hoc president, the registrar and every deputy registrar of the Syariah Court, every member of an Appeal Board, the Registrar of Muslim Marriages, every Kadi and every Naib Kadi to be a public servant within the meaning of the Penal Code (Cap. 224), and to provide for proceedings before the Appeal Board to be deemed to be judicial proceedings within the meaning of Chapter XI of the Penal Code, so that those persons and proceedings will be public servants and judicial proceedings, respectively, for the purposes of certain offences in the Penal Code;

- (t) to empower the President of Singapore to make rules for certain matters concerning the Syariah Court and proceedings in the Syariah Court.

Clause 1 relates to the short title and commencement.

Clause 2 repeals section 8 to abolish the office of the Secretary. Upon the abolition of that office, the duties and powers of the Secretary will be performed and exercised by the Chief Executive appointed under section 7A.

Clause 3 amends section 21 —

- (a) to replace the existing requirement for the Secretary to keep minutes of all meetings of the Majlis with a requirement for the Majlis to ensure that minutes of every meeting of the Majlis are kept, as a consequence of the abolition of the office of the Secretary by clause 2;
- (b) to enable the minutes of every meeting of the Majlis to be kept in the national language or in English, instead of in both languages; and
- (c) to abolish the existing requirement for the minutes of every meeting of the Majlis to be entered in the minute book of the Majlis.

Clause 4 amends section 34B —

- (a) to clarify that the President of Singapore may appoint one or more deputy registrars of the Syariah Court; and
- (b) to restate the jurisdiction, powers and duties of the registrar and every deputy registrar of the Syariah Court.

Clause 5 amends section 35 to require either party to a marriage to be domiciled in Singapore, or to be habitually resident in Singapore for a period of at least 3 years, before the Syariah Court has jurisdiction to hear and determine any action or proceeding mentioned in section 35(2). For this purpose, a person who is a citizen of Singapore is presumed to be domiciled in Singapore, until the contrary is proved.

This new requirement is similar to the requirement under section 93(1) of the Women's Charter (Cap. 353), read with section 3(5) of the Women's Charter, for either party to a marriage to be domiciled in Singapore, or to be habitually resident in Singapore for a period of at least 3 years, before the High Court or a Family Court has jurisdiction to hear proceedings for divorce, presumption of death and divorce, judicial separation or nullity of marriage.

The new requirement introduced by clause 5 will only apply to any action or proceeding mentioned in section 35(2) that is commenced on or after the date of commencement of clause 5(b).

Clause 6 makes an amendment to section 43(e) that is consequential to the repeal of Division 1 of Part XXI of the Criminal Procedure Code (Cap. 68) by

section 39(a) of the Administration of Justice (Protection) Act 2016 (Act 19 of 2016).

Clause 7 inserts new sections 43A and 43B to enhance the powers of the Syariah Court in relation to matrimonial proceedings.

The new section 43A empowers the Syariah Court, when hearing any matter mentioned in section 35(2), 47, 48, 49, 51 or 52, or in the new section 46B (to be inserted by clause 10), to order or advise any of the parties or their children, to do either or both of the following, if the Syariah Court considers that doing so is in the interests of any of the parties or their children:

- (a) attend counselling provided by a person the Syariah Court appoints;
- (b) participate in a family support programme or activity (that is, any programme or activity carried out for the purpose of addressing or resolving any relationship issue or relationship problem between spouses or former spouses, between siblings or between parent and child) the Syariah Court specifies.

Where any party who is ordered under the new section 43A to attend counselling or participate in a family support programme or activity fails to do so, the Syariah Court may make such orders as the Syariah Court thinks fit, including an order for a stay of the proceedings, or an order for costs against the defaulting party.

Anything said, any document prepared and any information provided for the purposes of or in the course of any counselling or any family support programme or activity is not to be admitted in evidence in the Syariah Court or any court.

A person providing any counselling or conducting any family support programme or activity is protected from personal liability in certain circumstances.

The new section 43A is similar to section 50(2)(b) and (c), (3C), (3D), (3E), (4), (5) and (6) of the Women's Charter.

The new section 43B empowers the Syariah Court to appoint, in any proceedings involving the custody or welfare of a child, a registered medical practitioner, psychologist, counsellor, social worker or mental health professional to examine and assess the child for the purposes of preparing expert evidence for use in those proceedings.

The new section 43B is similar to section 28 of the Family Justice Act 2014 (Act 27 of 2014).

Clause 8 repeals and re-enacts section 46 to provide that matters and proceedings in the Syariah Court will normally be heard in camera.

The new section 46 is similar to section 10(1) and (2) of the Family Justice Act 2014.

Clause 9 inserts a new section 46A to require a prescribed party (that is, a party to a marriage who is prescribed by rules made under section 145) in a prescribed circumstance to attend the applicable prescribed activity within the prescribed time.

The applicable prescribed activity is the particular type of prescribed activity (such as counselling) that a prescribed party in a prescribed circumstance is required to attend.

A prescribed party in a prescribed circumstance cannot apply to the Syariah Court for a divorce in accordance with the Muslim law, or make a cross-application in proceedings for a divorce in accordance with the Muslim law, unless the prescribed party has attended the applicable prescribed activity, is exempted by rules made under section 145 from attending the applicable prescribed activity, or is allowed by the Syariah Court to make the application or cross-application.

The Syariah Court may, at any stage in any proceedings for a divorce in accordance with the Muslim law, order either or both of the parties to the marriage to attend a prescribed activity. The Syariah Court may make such an order regardless of whether the parties are prescribed parties.

Where any party who is required or ordered under the new section 46A to attend a prescribed activity fails to do so, the Syariah Court may make such orders as the Syariah Court thinks fit, including an order for a stay of the proceedings for a divorce in accordance with the Muslim law, or an order for costs against the defaulting party.

Generally, anything said, any document prepared and any information provided for the purposes of or in the course of attending a prescribed activity is not to be admitted in evidence in the Syariah Court or any court. However, a parenting plan prepared during a prescribed activity may, with the consent of every party who prepared it, be admitted in evidence in the Syariah Court.

A person appointed to conduct a prescribed activity is protected from personal liability in certain circumstances.

Rules made under section 145 may prescribe various things required to be prescribed for the purposes of the new section 46A.

Clause 10 inserts a new section 46B to enable a married man to apply to the Syariah Court for a divorce in accordance with the Muslim law before pronouncing a divorce (through uttering the talak) in the Syariah Court. With this new procedure, a married man can seek help from the Syariah Court to save his marriage, and the Syariah Court can intervene to save the marriage (if possible) before the married man pronounces the talak. The new procedure is intended to reduce the possibility of frivolous pronouncements of talak outside of the Syariah Court. It does not affect the right of a married man to pronounce the talak outside of the Syariah Court, if he still chooses to do so.

Clause 11 amends section 47 —

- (a) to clarify that when a married woman applies to the Syariah Court for a divorce in accordance with the Muslim law, the Syariah Court causes a summons to be served on her husband, instead of summoning the husband; and
- (b) to remove the existing reference to the registrar of the Syariah Court exercising the power under subsection (5), as the new section 34B(2) (to be inserted by clause 4(b)) will provide for that registrar to exercise that power.

Clause 12 amends section 50 to remove the existing references to the registrar of the Syariah Court exercising powers under that section, as the new section 34B(2) (to be inserted by clause 4(b)) will provide for that registrar to exercise those powers.

Clause 13 inserts new sections 54A and 54B to enhance the powers of the Syariah Court to regulate behaviour in the Syariah Court, and the use of any recording of proceedings in the Syariah Court.

The new section 54A empowers the Syariah Court to grant or refuse permission to use in, or bring into, the Syariah Court a recording device, and to regulate the use of any recording made pursuant to such permission. This is similar to the power of a court under section 5(2) of the Administration of Justice (Protection) Act 2016.

Under the new section 54A(4), a person is guilty of an offence if the person —

- (a) uses in or brings into the Syariah Court any recording device without the permission of the Syariah Court; or
- (b) uses any recording made pursuant to such permission in contravention of any conditions of that permission.

The new section 54B empowers the Syariah Court to exclude from any proceeding in the Syariah Court any person whose behaviour, in the opinion of the Syariah Court, constitutes —

- (a) an offence under the new section 54A(4); or
- (b) an offence under section 175, 178, 179, 180 or 228 of the Penal Code that is committed before the Syariah Court in that proceeding.

This is similar to the power of the Tribunal for the Maintenance of Parents under section 15(2) of the Maintenance of Parents Act (Cap. 167B).

Clause 14 amends section 55(3) to extend the maximum term of office of a person, who serves on the panel of persons from whom an Appeal Board may be constituted under section 55, from 2 years to 3 years. Under clause 40(1), this change does not apply to a person who, on the date of commencement of clause 14, serves on that panel, until the expiry of that person's term on that panel.

Clause 15(a) amends section 56B(1) to clarify that —

- (a) there can be more than one deputy registrar of the Syariah Court; and
- (b) each deputy registrar is entitled to protection under section 56B(1) from being sued for any act done in the discharge of the deputy registrar's judicial duty.

Clause 15(b) amends section 56B(2) to clarify that the protection under section 56B(2) from being sued, which is enjoyed by an officer of the Syariah Court (or any other person expressly authorised by the Syariah Court) charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Syariah Court, is also extended to an officer of an Appeal Board (or any other person expressly authorised by the Appeal Board) charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Appeal Board.

Clause 15(c) inserts new section 56B(4) and (5) to confer protection from being sued on the following persons for certain acts done in the discharge of their duties:

- (a) a child representative appointed to represent the interests of a child in any proceedings involving the child, or the custody and welfare of the child;
- (b) a registered medical practitioner, psychologist, counsellor, social worker or mental health professional appointed by the Syariah Court to examine or assess a child for the purposes of preparing expert evidence for use in any proceedings involving the custody or welfare of that child.

The protection conferred by the new section 56B(4) and (5) is similar to the protection conferred by section 45(5) and (6) of the Family Justice Act 2014 on similar persons.

Clause 16 amends section 58 to enhance the powers of the Majlis to administer any wakaf or nazar am.

Clause 16(a) inserts a new section 58(3A) to make the appointment, on or after the date of commencement of clause 16(a), of a trustee of a wakaf or a nazar am, under an instrument or declaration creating, governing or affecting the wakaf or nazar am, void unless the trustee was appointed with the prior approval in writing of the Majlis.

Clause 16(b) replaces section 58(4) and inserts new section 58(4A) and (4B) —

- (a) to restate the statutory duties of the trustees of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am;

- (b) to specify the statutory duties of a mutawalli appointed by the Majlis for a wakaf or nazar am;
- (c) to enhance the powers of the Majlis to remove, and to appoint a mutawalli in place of or in addition to, an existing trustee of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am; and
- (d) to restate the power of the Majlis to appoint a mutawalli for a wakaf or nazar am that has no trustee.

Clause 16(c) inserts new section 58(6), (7) and (8).

The new section 58(6) specifies certain grounds on which the Majlis may remove a mutawalli appointed by the Majlis for a wakaf or nazar am. The new section 58(6) does not affect the general power of the Majlis under section 58(5) to at any time remove or replace any mutawalli appointed by the Majlis.

The new section 58(7) provides that a court must not entertain or proceed with any proceedings relating to the appointment or removal of —

- (a) a trustee of a wakaf or nazar am appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am; or
- (b) a mutawalli appointed by the Majlis.

The new section 58(7) is in accordance with the views of the High Court in *Mohamed Shariff Valibhoy and others v Arif Valibhoy* [2016] SGHC 11 that —

- (a) the administration of a wakaf, including the appointment, management and removal of trustees, falls squarely within the responsibility of the Majlis for dealing with the affairs of a wakaf; and
- (b) Parliament could not have intended for the trustees of a wakaf to have recourse to the court upon the enactment of the Administration of Muslim Law Act, because —
 - (i) concurrent jurisdiction over such trustees by the Majlis and the court may lead to inconsistent decisions being issued by the Majlis and the court on the same issue, and different standards and different laws being applied by the Majlis and the court;
 - (ii) the Administration of Muslim Law Act vested title to wakaf property and administrative control over a wakaf solely in the Majlis; and
 - (iii) section 63 limits the jurisdiction of the court to issues that are directed to the court by the Majlis.

The new section 58(8) clarifies that the new section 58(3A), (4), (4A) and (7)(a) applies to a trustee of a wakaf or nazar am appointed under an instrument or

declaration creating, governing or affecting the wakaf or nazar am, regardless of when the instrument or declaration was made.

Clause 17 inserts new section 61(3), (4), (5) and (6).

The new section 61(3) empowers the Majlis to establish and maintain for each wakaf or nazar am a separate sinking fund for that wakaf or nazar am, for purposes such as —

- (a) improving or maintaining any immovable property belonging to that wakaf or nazar am; or
- (b) purchasing any property or asset for that wakaf or nazar am.

The new section 61(4) empowers the Majlis to direct that a portion of the net annual income of a wakaf or nazar am be transferred to the sinking fund established and maintained for that wakaf or nazar am.

The new section 61(5) provides for the Majlis to determine the percentage of the net annual income of a wakaf or nazar am that is to be transferred to the sinking fund, after consulting the mutawalli of the wakaf or nazar am. By virtue of the definition of “mutawalli” in section 2, the term “mutawalli” is not confined to a mutawalli appointed by the Majlis, but includes a trustee appointed under an instrument or declaration creating, governing or affecting the wakaf or nazar am.

The new section 61(6) empowers the Majlis to make rules, with the approval of the Minister, for carrying out the purposes of section 61.

Clause 18 amends section 74 to enhance the powers of the Majlis to administer any mosque in Singapore.

Clause 18(a) replaces section 74(3) and inserts new section 74(3A) and (3B) —

- (a) to restate the statutory duties of the trustees of a mosque appointed under a written instrument;
- (b) to specify the statutory duties of a mutawalli appointed by the Majlis for a mosque;
- (c) to enhance the powers of the Majlis to remove, and to appoint a mutawalli in place of or in addition to, an existing trustee of a mosque appointed under a written instrument; and
- (d) to restate the power of the Majlis to appoint a mutawalli for a mosque that has no trustee.

Clause 18(b) inserts new section 74(5), (6), (7) and (8).

The new section 74(5) specifies certain grounds on which the Majlis may remove a mutawalli appointed by the Majlis for a mosque. The new section 74(5) does not affect the general power of the Majlis under section 74(4) to at any time remove or replace any mutawalli appointed by the Majlis.

The new section 74(6) specifies when the provisions in section 58 relating to the removal of a trustee or mutawalli of a wakaf are to take precedence over the provisions in section 74 relating to the removal of a trustee or mutawalli of a mosque, and vice versa, in a case where a mosque is established by a wakaf.

The new section 74(7) clarifies that the new section 74(3), (3A) and (6) applies to a trustee of a mosque appointed under a written instrument, regardless of when the instrument was made.

The new section 74(8) clarifies that the new section 74(6) applies to a trustee of a wakaf appointed under an instrument or declaration creating, governing or affecting the wakaf, regardless of when the instrument or declaration was made.

Clause 19 replaces paragraph (a) of section 77(1) to extend the purposes for which moneys in the Mosque Building and Mendaki Fund may be used in relation to building works.

Presently, those moneys can only be used for building mosques in Singapore and for connected purposes, including any extension, alteration, reconstruction or restoration of an existing mosque, and any other building works, that the Majlis may approve.

The new section 77(1)(a) allows those moneys to be used for building and maintaining mosques, and premises or facilities for conducting religious education, in Singapore and for connected purposes, including —

- (a) any extension, alteration, reconstruction or restoration of an existing mosque, or any existing premises or facilities for conducting religious education, and any other building works, that the Majlis may approve; and
- (b) any purchase of land, obtaining or renewal of any lease, tenancy or other interest in land, or obtaining or renewal of a licence to occupy land, that the Majlis may approve.

Clause 20(a) amends section 79(1) to enable a Muslim employee to specify, in the form by which the employee exercises an option for the employee's employer not to pay contributions to the Mosque Building and Mendaki Fund on the employee's behalf, the period for which the employee does not wish the employer to pay those contributions. Under clause 40(2), this change does not apply to an option under section 79(1) that a Muslim employee exercises before the date of commencement of clause 20(a).

Clause 20(b) replaces section 79(4) to make drafting improvements. Among other things, those drafting improvements enable the new section 79(4) to be consistent with both the existing version and the amended (by clause 20(a)) version of section 79(1).

Clause 21 replaces the references to “trustees” in section 82(1), (2), (3) and (5) with references to “mutawallis”, as the duties under section 82 are to be performed not only by the trustees of a mosque appointed under a written instrument, but also by a mutawalli appointed by the Majlis for a mosque. By virtue of the definition of “mutawalli” in section 2, the term “mutawalli” is not confined to a mutawalli appointed by the Majlis, but includes a trustee appointed under a written instrument.

Clause 22 amends section 88E(4) to provide that composition sums collected under section 88E are to be paid into the Consolidated Fund, and not to the Majlis, which is the present case.

Clause 23 inserts a new section 94A to require any couple that falls within certain prescribed classes of persons to attend together and complete a marriage preparation programme, before the couple can apply to a Kadi or Naib Kadi for the solemnization according to the Muslim law of their marriage. The purpose of this requirement is to reduce the rate of divorce amongst the prescribed classes of persons.

Clauses 24 and 38 insert a new section 94B and a new Fourth Schedule, respectively, to prevent an application for the solemnization according to the Muslim law of the marriage of a minor from being made to a Kadi or Naib Kadi without the consent of the appropriate parent or guardian of the minor. The new Fourth Schedule specifies the parent or guardian of the minor whose consent is required in any particular circumstances. In an appropriate case, a Kadi or Naib Kadi may dispense with the consent of a parent or guardian of a minor.

Clause 25 replaces section 95(1), (2) and (3) for the following purposes:

- (a) to list clearly each person by whom a marriage may be solemnized according to the Muslim law, and the conditions (if any) that must be satisfied for that person to solemnize the marriage;
- (b) to introduce the following measures to ensure that there is no lawful obstacle, according to the Muslim law or the Administration of Muslim Law Act, to a marriage, before the marriage is solemnized according to the Muslim law:
 - (i) to require the parties to be wedded to apply to a Kadi or Naib Kadi for, and obtain, the written consent of the Kadi or Naib Kadi to the solemnization of the marriage by the wali of the woman to be wedded, before the wali can solemnize the marriage;
 - (ii) to require a Kadi or Naib Kadi to be present during the solemnization of the marriage by the wali of the woman to be wedded, before the wali can solemnize the marriage;

- (iii) to require a Kadi or Naib Kadi to be satisfied after inquiry that there is no lawful obstacle, according to the Muslim law or the Administration of Muslim Law Act, to the marriage, before the Kadi or Naib Kadi solemnizes the marriage or gives written consent to the solemnization of the marriage by the wali of the woman to be wedded.

Clause 26 replaces section 100(1) and (2) to enable the Registrar of Muslim Marriages to maintain a Register of Marriages and a Register of Revocation of Divorces in such form as the Registrar of Muslim Marriages may determine. As the Registrar of Muslim Marriages is no longer required to maintain those Registers in hard copy, there is also no need for the Registrar of Muslim Marriages to keep an index of each of those Registers.

Clause 27 replaces section 101(7) to replace the existing requirement for the Registrar of Muslim Marriages to sign and date any correction made in the Register of Marriages and Register of Revocation of Divorces with a requirement for the Registrar of Muslim Marriages to authenticate that correction, because the Registrar of Muslim Marriages is no longer required to maintain those Registers in hard copy.

Clause 28(a), (b) and (c) replaces section 102(1) and makes consequential changes to section 102(2) —

- (a) to require a Kadi or Naib Kadi to register a marriage (which was solemnized by him or in his presence) immediately after the solemnization of the marriage; and
- (b) to clarify that a Kadi or Naib Kadi may, at his option, register, or solemnize and register, a marriage at his house or office, at the house of the parties (or one of the parties) to the marriage, or at any other place proposed by the parties to the marriage.

Clause 28(d) amends section 102(2)(a) and (5) to clarify that —

- (a) the period of 7 days in section 102(2)(a) (as amended by clause 28(b)) starts on (and not after) the date of the revocation of divorce; and
- (b) the period of 7 days in section 102(5) starts on (and not after) the date of the divorce.

Clause 29(a) amends section 103(1), and clause 29(c) replaces section 103(2), so that a marriage solemnized by the wali of the woman to be wedded will be registered in accordance with section 103(1) instead of section 103(2). Presently, such a marriage may be registered under the existing section 103(2) at any time within 7 days of the marriage. Under the new section 102(1)(a) (to be inserted by clause 28(a)), a marriage that is registered in accordance with section 103(1) is registered immediately after the solemnization of the marriage.

Clause 29(b) amends section 103(1) —

- (a) to make an editorial change to the description of the Register of Marriages; and
- (b) to remove the statement that the certificate of marriage is attached to the Register of Marriages, because the Registrar of Muslim Marriages is no longer required to maintain that Register in hard copy.

Clause 29(c) also replaces section 103(2) to remove the statement that the certificate of revocation of divorce is attached to the Register of Revocation of Divorces, as the Registrar of Muslim Marriages is no longer required to maintain that Register in hard copy.

Clause 30 amends section 106(2) —

- (a) to clarify that the register mentioned in section 106(2) is the Register of Marriages or Register of Revocation of Divorces (as appropriate); and
- (b) to replace the existing requirement for an entry made in the Register of Marriages or Register of Revocation of Divorces to be signed by the person making the entry with a requirement for that entry to be authenticated by that person, because the Registrar of Muslim Marriages is no longer required to maintain those Registers in hard copy.

Clause 31 amends section 107 so that the section no longer provides for an extension of time for the registration of a marriage solemnized according to the Muslim law. Under the new section 102(1)(a) (to be inserted by clause 28(a)), a Kadi or Naib Kadi must register a marriage immediately after the solemnization of the marriage according to the Muslim law.

Clause 32 amends section 111(1) and (2)(aa) —

- (a) to enable a Muslim person to make a revocable nomination under section 49M(2) of the Insurance Act; and
- (b) to enable section 61 of the Insurance Act (which deals with the payment of living benefits or death benefits under a life policy or an accident and health policy, and related matters) to apply without qualification in a case where a Muslim person makes a revocable nomination under section 49M(2) of that Act in respect of a life policy or an accident and health policy.

Clause 33 replaces section 116 and repeals section 117 to restate the law on who the court may grant letters of administration to, in a case where a Muslim person dies intestate. Presently, sections 116 and 117 provide different treatments for a case where a Muslim husband dies intestate and a case where a Muslim wife dies intestate. Under the new section 116(1), in granting letters of administration to the estate of any Muslim person who dies intestate, the court may grant letters of

administration to any next-of-kin of the Muslim person or any other person entitled to a share in the estate under the Muslim law. The new section 116(2) clarifies that the new section 116 does not affect the power of the court under section 18 of the Probate and Administration Act (Cap. 251).

Clause 34 repeals section 125 to abolish the existing statutory treatment under that section of household property as *prima facie* belonging to the husband, in any question between the husband and his creditors.

Clause 35(a) replaces section 141(1) to provide for every president, every ad-hoc president, the registrar and every deputy registrar of the Syariah Court, every member of an Appeal Board, the Registrar of Muslim Marriages, every Kadi and every Naib Kadi to be a public servant within the meaning of the Penal Code, so that they will be public servants for the purposes of certain offences in the Penal Code.

Clause 35(b) amends section 141(2) to provide for proceedings before the Appeal Board to be deemed to be judicial proceedings within the meaning of Chapter XI of the Penal Code, so that those proceedings will be judicial proceedings for the purposes of certain offences in Chapter XI of the Penal Code.

Clause 35(c) replaces the section heading of section 141 —

- (a) as a consequence of the extension of the list of persons mentioned in section 141(1) who are public servants within the meaning of the Penal Code; and
- (b) to reflect the subject matter of section 141(2).

Clause 36 replaces sections 143 and 144.

Upon the replacement of section 100(1) and (2) by clause 26, the Registrar of Muslim Marriages is no longer required to do either of the following:

- (a) maintain the Register of Marriages and Register of Revocation of Divorces in hard copy;
- (b) keep an index of each of those Registers.

Consequently, the provisions in the existing section 143 relating to the inspection of the Register of Marriages, the Register of Revocation of Divorces and the general index of each of those Registers, and the furnishing of a copy of an entry in either of those Registers, are replaced with a new section 143(1). The new section 143(1) enables any person to apply to the Registrar of Muslim Marriages to obtain a copy of or extract from any information contained in the Register of Marriages or Register of Revocation of Divorces (including a copy or extract that is certified by the Registrar of Muslim Marriages to be a true copy or extract). The provisions in the existing section 143 relating to the Register of Divorces are retained with the necessary modifications in new section 143(2) and (3).

Likewise, the provisions in the existing section 144 relating to reliance on the Register of Marriages, the Register of Revocation of Divorces, or a copy of any entry (in either Register) that is certified under the hand and seal of the Registrar of Muslim Marriages, as prima facie evidence are replaced with a new section 144(1). Under the new section 144(1), a copy of or extract from any information or record contained in the Register of Marriages or Register of Revocation of Divorces (including a copy of or extract from any such record produced from a microfilm or digital image), if certified by the Registrar of Muslim Marriages to be a true copy or extract, is admissible in evidence as of equal validity with the original document containing the information or the original record (as the case may be). The provisions in the existing section 144 relating to the Register of Divorces are retained with the necessary modifications in new section 144(2).

Clause 37 amends section 145(2) by replacing paragraph (b) and inserting new paragraphs (ba) and (bb). The new paragraphs (b) and (ba) restate matters dealt with by the existing paragraph (b) in a manner that is aligned with the new section 34B(2) (inserted by clause 4(b)). Collectively, the new paragraphs (b), (ba) and (bb) empower the President of Singapore to make rules for the following matters:

- (a) to prescribe the jurisdiction, powers and duties of the registrar of the Syariah Court mentioned in the new section 34B(2)(b);
- (b) to provide for any matter concerning an appeal from a decision of the registrar of the Syariah Court;
- (c) to provide for the appointment of a child representative to represent the interests of a child in any proceedings involving the child, or the custody and welfare of the child, and for the remuneration of the child representative.

Clause 39 makes miscellaneous amendments to the Act. The clause amends sections 9(b), 16(2), 18(1) to (4), 20, 23(1) and (2), 24(1), 25(1) and 32(1) and (2), and paragraph 10 of the Second Schedule —

- (a) to provide for the transfer of certain duties and powers of the Secretary to the Chief Executive; and
- (b) to make changes that are consequential to the abolition of the office of the Secretary by clause 2.

Clause 40 contains saving and transitional provisions relating to the amendments in clauses 14 and 20(a). The clause also gives the Minister power to make rules of a saving and transitional nature.

EXPENDITURE OF PUBLIC MONEY

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