

# **Singapore International Commercial Court (International Committee) Bill**

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**Bill No. 36/2024.**

*Read the first time on 14 October 2024.*

## **SINGAPORE INTERNATIONAL COMMERCIAL COURT (INTERNATIONAL COMMITTEE) ACT 2024**

**(No. of 2024)**

### ARRANGEMENT OF SECTIONS

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A BILL

*intituled*

An Act to establish the International Committee of the Singapore International Commercial Court and to make related amendments to the Legal Profession Act 1966.

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 Singapore International Commercial Court (International Committee) Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

## 5 Interpretation

2. In this Act —

“Committee” means the Committee established by section 3(1);

“jurisdiction regulations” means the jurisdiction regulations made under section 6;

10 “member” means a member of the Committee;

“permanent member” means a person who is a member by virtue of section 4(1)(a), (b) or (c);

“registrar” means the registrar of the Committee appointed under section 9(1);

15 “rules” means the rules made under section 10.

## Establishment of International Committee

3.—(1) A body called the International Committee of the Singapore International Commercial Court is established.

20 (2) The Committee is not a court of Singapore for all purposes and nothing in this Act authorises the Committee to exercise the judicial power of Singapore.

## Constitution

4.—(1) The Committee comprises —

(a) the Chief Justice;

25 (b) all Supreme Court Judges, Judicial Commissioners and Senior Judges who are for the time being designated to hear cases in the Singapore International Commercial Court or appeals from that Court;

(c) all International Judges; and

(d) the ad hoc members provided for by the jurisdiction regulations.

(2) However, a Judicial Commissioner, Senior Judge, or International Judge is not a member of the Committee if he or she is appointed pursuant to Article 95(5)(a) of the Constitution to hear and determine a specific case only.

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(3) The Chief Justice is the President of the Committee.

(4) The Chief Justice may appoint one or more Vice-Presidents of the Committee from among the permanent members of the Committee.

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### **Seal**

5. The Committee is to have a seal of a design prescribed by the rules.

### **Minister may give effect to arrangements for civil appeals to Singapore**

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6.—(1) If arrangements are made between Singapore and a foreign jurisdiction for appeals to lie to Singapore from all or any class of civil judgments by a court of that foreign jurisdiction, the Minister may make jurisdiction regulations —

(a) to designate the Committee as the body to hear those appeals and any related proceedings (including proceedings for incidental directions and interim orders); and

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(b) generally to give full effect to those arrangements.

(2) Without limiting subsection (1), the jurisdiction regulations may —

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(a) provide for the appointment of ad hoc members of the Committee, being judges of a foreign jurisdiction from which an appeal lies to the Committee;

(b) provide for the composition of the Committee in any of its proceedings;

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- (c) provide for the powers of the Committee in disposing of an appeal or any related proceedings;
- (d) provide for the Committee to take notice of a foreign law;
- 5 (e) provide for the Committee to exercise the powers conferred upon it by a foreign law;
- (f) provide for the Committee to apply foreign law;
- (g) provide that the Committee is not bound by the law of Singapore relating to evidence, and provide for the rules of evidence to be applied by the Committee;
- 10 (h) provide that the Committee is not bound by Singapore's rules of private international law, and provide for the rules of private international law to be applied by the Committee;
- 15 (i) provide for the Committee to determine a question of foreign law on the basis of submissions instead of evidence;
- (j) provide for the Committee to have power to stay the enforcement or execution of a judgment of a foreign court, and to make other interim orders, while the judgment is under appeal to the Committee;
- 20 (k) provide for the Committee to have power to order costs;
- (l) provide for the manner by which business is conducted between the Committee and a foreign court;
- 25 (m) instead of providing for any matter, refer to any provision made or to be made for that matter by the rules or by a foreign law; and
- (n) make different provisions for different purposes.

### **Jurisdiction and powers**

30 7.—(1) The Committee has the jurisdiction and powers conferred on it by the jurisdiction regulations.

(2) To avoid doubt, the Committee may decide any question about its jurisdiction.

## Sittings

8.—(1) The Committee is to sit at the times and places appointed by the Chief Justice.

(2) Unless the jurisdiction regulations or the rules provide otherwise, the Committee is to sit in public. 5

## Administration

9.—(1) The President may, on the recommendation of the Chief Justice, appoint a registrar, a deputy registrar and any number of assistant registrars of the Committee.

(2) A person must not be appointed as the registrar, the deputy registrar or an assistant registrar unless he or she is a qualified person as defined by section 2(1) of the Legal Profession Act 1966. 10

(3) The registrar, deputy registrar and assistant registrars have the functions prescribed by the jurisdiction regulations and the rules.

(4) Subject to the jurisdiction regulations and the rules, the functions of the registrar may be exercised by the deputy registrar or an assistant registrar. 15

(5) The Committee is to have a Registry, which is under the control and supervision of the registrar.

(6) The registrar may appoint other officers of the Committee. 20

## Rules

10.—(1) The Chief Justice may make rules to regulate and prescribe the procedure and practice to be followed in the Committee and its Registry.

(2) Without limiting subsection (1), the rules may — 25

(a) provide for the Committee to dispose of any proceedings on the basis of documents and without an oral hearing;

(b) provide for the Committee to hold any hearing by audio-visual technology;

(c) provide for the Committee to summarily dismiss any appeal or application on its own motion; 30

- (d) provide for the circumstances in which the Committee must or may sit in private;
- (e) prescribe the forms to be used and the fees and deposits payable for the purposes of proceedings in the Committee;
- 5 (f) regulate matters relating to costs in proceedings in the Committee and the assessment of those costs;
- (g) regulate the means by which particular facts may be proved, and the manner in which any factual, expert or opinion evidence may be adduced;
- 10 (h) instead of providing for any matter, refer to any provision made or to be made for that matter by practice directions issued for the time being by the registrar; and
- (i) make different provisions for different purposes.

15 (3) The Chief Justice may establish one or more committees to advise the Chief Justice in the making of rules.

(4) If there is an inconsistency between the jurisdiction regulations and the rules, the jurisdiction regulations are to prevail to the extent of the inconsistency.

### **Immunities of members, etc.**

20 **11.** The members, registrar, deputy registrar and assistant registrars of the Committee are not liable for anything done or omitted to be done by them in good faith in the discharge or purported discharge of their functions under this Act.

### **Finality**

25 **12.** A decision of the Committee is final and may not be appealed to or reviewed by any court.

### **Enforcement in Singapore**

30 **13.—**(1) For the purposes of enforcement by the courts of Singapore, a judgment or order of the Committee on an appeal from a court of a foreign jurisdiction —



- (a) is to be treated as a judgment or order of a court of that foreign jurisdiction; and
- (b) may be proved in the manner provided for by Rules of Court.

(2) Subsection (1) does not apply if the judgment or order of the Committee does not have effect under the law of that foreign jurisdiction. 5

### **Related amendments to Legal Profession Act 1966**

#### **14. In the Legal Profession Act 1966 —**

- (a) in section 2(1), after the definition of “Institute”, insert — 10
  - ““International Committee” means the International Committee of the Singapore International Commercial Court constituted by section 3(1) of the Singapore International Commercial Court (International Committee) Act 2024;” 15
- (b) in section 2(1), after the definition of “Senate”, insert —
  - ““Singapore International Commercial Court” means the division of the General Division of the High Court constituted under section 18A of the Supreme Court of Judicature Act 1969;” 20
- (c) in section 29(1), after “those courts”, insert “, and the exclusive right to appear and plead in the International Committee according to the law in force in the International Committee”;
- (d) in section 33(1)(a)(ii) and (iii), after “courts in Singapore”, insert “or the International Committee”; 25
- (e) in section 35B(1), replace paragraph (d) with —
  - “(d) any foreign lawyer registered under section 36P and representing any party in any mediation that relates to — 30
    - (i) a dispute in respect of which an action has commenced in the

Singapore International Commercial Court; or

(ii) a dispute that is the subject of an appeal to the International Committee.”;

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(f) in Part 4B, in the Part heading, after “COURT”, insert “AND INTERNATIONAL COMMITTEE”;

(g) in section 36O(1), delete the definition of “appellate court”;

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(h) in section 36O(1), after the definition of “instructing authority”, insert —

““International Committee rules” means the rules made under section 10 of the Singapore International Commercial Court (International Committee) Act 2024;”;

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(i) in section 36O(1), in the definition of “law expert”, in paragraph (a)(ii), replace “or the appellate court” with “, the SICC appellate court or the International Committee”;

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(j) in section 36O(1), replace the definitions of “relevant appeal” and “relevant proceedings” with —

““relevant International Committee appeal” means such appeal to the International Committee as may be prescribed for the purposes of this definition;

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“relevant SICC appeal” means such appeal, from any judgment given or order made by the Singapore International Commercial Court, as may be prescribed for the purposes of this definition;

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“relevant SICC proceedings” means such proceedings in the Singapore International Commercial Court as may be prescribed for the purposes of this definition;

“SICC appellate court” means the court to which an appeal against a decision of the Singapore International Commercial Court is to be made under section 29C of the Supreme Court of Judicature Act 1969.”;

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(k) in section 36O(1), delete the definition of “Singapore International Commercial Court”;

(l) in the following sections, in the section heading, replace “**relevant proceedings**” with “**relevant SICC proceedings, etc.**”:

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Section 36P

Section 36PA;

(m) in the following provisions, replace “relevant proceedings” with “relevant SICC proceedings”:

Section 36P(1)(a)(i) and (ii), (c)(i) and (ii), (d)(i) and (ii), (2)(a) and (c) and (9)

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Section 36PA(1)(a) and (c) and (7);

(n) in the following provisions, replace “appellate court” wherever it appears with “SICC appellate court”:

Section 36P(1)(b) and (2)(a), (b) and (c)

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Section 36PA(1)(a), (b) and (c);

(o) in the following provisions, replace “relevant appeal” with “relevant SICC appeal”:

Section 36P(1)(b)(i) and (ii), (c)(i) and (ii) and (d)(i) and (ii) and (2)(b) and (c)

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Section 36PA(1)(b) and (c);

(p) in section 36P(1)(d)(ii), replace the full-stop at the end with a semi-colon;

(q) in section 36P(1), after paragraph (d), insert —

“(e) appear and plead in the International Committee —

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(i) in any relevant International Committee appeal; or

(ii) in any proceedings that are preliminary to a relevant International Committee appeal;

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(f) represent any party to —

(i) any relevant International Committee appeal in any matter concerning that appeal; or

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(ii) any proceedings that are preliminary to any relevant International Committee appeal in any matter concerning those preliminary proceedings;

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(g) give advice, prepare documents and provide any other assistance in relation to or arising out of —

(i) any relevant International Committee appeal; or

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(ii) any proceedings that are preliminary to any relevant International Committee appeal.”;

(r) in section 36P, replace subsections (1A) and (1B) with —

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“(1A) However, except as otherwise prescribed, a foreign lawyer granted full registration under this section may not, in —

(a) any relevant SICC proceedings prescribed for the purpose of this subsection or any proceedings that are preliminary to any relevant SICC proceedings so prescribed;

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(b) any relevant SICC appeal prescribed for the purpose of this subsection or any proceedings that are preliminary to any relevant SICC appeal so prescribed; or

(c) any relevant International Committee appeal prescribed for the purpose of this subsection or any proceedings that are preliminary to any relevant International Committee appeal so prescribed,

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do any of the following:

(d) plead any matter without the permission of the Singapore International Commercial Court, the SICC appellate court or the International Committee, as the case may be;

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(e) make a submission on any matter of Singapore law.

(1B) In considering whether to grant permission under subsection (1A)(d), any relevant factor, including the prescribed factors, may be taken into account.”;

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(s) in section 36P(2)(c), replace the full-stop at the end with a semi-colon;

(t) in section 36P(2), after paragraph (c), insert —

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“(d) appear in the International Committee in any relevant International Committee appeal, solely for the purposes of making submissions on such matters of foreign law as are permitted by the International Committee, in accordance with the International Committee rules;

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(e) give advice and prepare documents, solely for the purposes of making submissions, in any relevant International Committee appeal, on such matters of foreign law as are permitted by the International Committee, in accordance with the International Committee rules.”;

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(*u*) in sections 36P(7) and 36PA(5), after “A Judge”, insert “sitting in the General Division of the High Court”;

(*v*) in section 36PA(1)(*c*), replace the full-stop at the end with a semi-colon;

5 (*w*) in section 36PA(1), after paragraph (*c*), insert —

“(d) appear in the International Committee in any relevant International Committee appeal, solely for the purposes of making submissions on such matters of foreign law as are permitted by the International Committee, in accordance with the International Committee rules;

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(e) give advice and prepare documents, solely for the purposes of making submissions, in any relevant International Committee appeal, on such matters of foreign law as are permitted by the International Committee, in accordance with the International Committee rules.”; and

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20 (*x*) in section 36S(3), after “Council”, insert “, by a permanent or ad hoc member of the International Committee,”.

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## EXPLANATORY STATEMENT

This Bill seeks to establish a body to be known as the International Committee of the Singapore International Commercial Court and to make related amendments to the Legal Profession Act 1966.

Clause 1 relates to the short title and commencement.

Clause 2 is an interpretation provision.

Clause 3 establishes the International Committee of the Singapore International Commercial Court (the Committee). The Committee is not part of the Singapore judiciary.

Clause 4 provides for the constitution of the Committee. The permanent members of the Committee are the Judges, etc., who are designated to hear cases

in the Singapore International Commercial Court or appeals from that Court. The jurisdiction regulations may provide for ad hoc members (see clause 6(2)(a)). The Chief Justice will be the President of the Committee, and may appoint Vice-Presidents from among the permanent members.

Clause 5 provides for the seal of the Committee.

Clause 6 enables the Minister to make jurisdiction regulations to give effect to arrangements for Singapore to hear civil appeals from other jurisdictions. The jurisdiction regulations may designate the Committee to hear such appeals, and provide for its composition and powers. The jurisdiction regulations may also enable the Committee to take an international approach in deciding such appeals, for example by disapplying Singapore's rules of evidence and private international law, and by enabling the Committee to take notice of and apply foreign law.

Clause 7 provides for the Committee to have the jurisdiction and powers conferred on it by the jurisdiction regulations.

Clause 8 provides for the sittings of the Committee. The Committee will generally sit in public.

Clause 9 provides for the registrars and other officers of the Committee, and the Registry of the Committee.

Clause 10 enables the Chief Justice to make rules to regulate and prescribe the procedure and practice in the Committee and its Registry. The rules are subject to the jurisdiction regulations.

Clause 11 confers immunity on the members and registrars of the Committee.

Clause 12 provides that the decisions of the Committee are final and may not be appealed to or reviewed by any court.

Clause 13 provides that, for the purposes of enforcement by the courts of Singapore, the judgments and orders of the Committee on an appeal from a foreign jurisdiction are to be treated as judgments and orders of a court from that jurisdiction. The Committee's judgments will therefore be enforceable in accordance with the mechanisms for enforcement applicable to that jurisdiction. For example, if that jurisdiction is party to the Convention on Choice of Court Agreements, enforcement in accordance with the Choice of Court Agreements Act 2016 is available.

Clause 14 makes related amendments to the Legal Profession Act 1966 (the Act). The main amendments are as follows:

- (a) advocates and solicitors will have the exclusive right to appear and plead in the Committee. This is subject to other legislation, including the amendments to Part 4B of the Act;

- (b) the section 33 prohibition against unauthorised persons acting as advocates and solicitors is extended to practice in or relating to the Committee;
- (c) Part 4B of the Act is amended so that foreign lawyers and foreign law experts who are registered to act in the Singapore International Commercial Court, or appeals from that Court, can also act in appeals to the Committee. The Committee will not have the power to register or cancel the registration of these foreign lawyers and foreign law experts, or to exercise disciplinary control over them. These powers will remain with the Supreme Court under the existing provisions of Part 4B of the Act;
- (d) foreign lawyers registered under Part 4B of the Act will also be permitted to represent parties in any mediation that relates to a dispute that is the subject of an appeal to the Committee; section 35B of the Act is amended accordingly.

## EXPENDITURE OF PUBLIC MONEY

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

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