

Women's Charter (Amendment) Bill

Bill No. 43/2021.

Read the first time on 1 November 2021.

A BILL

intituled

An Act to amend the Women's Charter, to make related amendments to certain other Acts and to repeal the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020.

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 Women’s Charter (Amendment) Act 2022 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2(1) of the Women’s Charter is amended —

(a) by deleting the definition of “Conciliation Officer” and substituting the following definition:

““conciliation officer” means a conciliation officer appointed under section 139C(1);”;

(b) by deleting the words “sections 13, 17, 20 and 59” in paragraph (a) of the definition of “court” and substituting the words “sections 20, 21A and 56”;

(c) by deleting the definition of “Deputy Registrar”;

(d) by inserting, immediately after the definition of “incapacitated husband”, the following definitions:

““licensed solemniser” means a person licensed under section 22(2) to solemnise marriages;

“marriage licence” means a marriage licence issued by the Registrar under section 17;”;

(e) by deleting the definition of “minor” and substituting the following definition:

““notice of marriage” means a notice of marriage under section 14;”;

(f) by inserting, immediately after the definition of “owner”, the following definition:

““permanent resident of Singapore” means a person who holds an entry permit under section 10 of the Immigration Act 1959 or a re-entry permit under section 11 of that Act;”;

(g) by inserting, immediately after the definition of “prostitution”, the following definition:

““record”, in relation to the State Marriage Register, includes —

- (a) a certificate of marriage created under section 30(2)(a); and
 - (b) a certificate of marriage contained in the State Marriage Register before the date of commencement of section 19 of the Women’s Charter (Amendment) Act 2022;”;
- (h) by inserting, immediately after the definition of “solemnisation”, the following definition:
- ““special marriage licence” means a special marriage licence granted by the Minister under section 21;”.

Amendment of section 3

3. Section 3 of the Women’s Charter is amended —

- (a) by inserting, immediately after subsection (1), the following subsection:
 - “(1A) It is declared that section 52 applies for the purposes of determining a woman’s domicile for the purposes of subsection (1).”;
- (b) by deleting the words “Part 10” in subsection (2) and substituting the words “Parts 10 and 10A”.

New section 3A

4. The Women’s Charter is amended by inserting, immediately after section 3 in Part 1, the following section:

“Reckoning of age

3A. In reckoning the age of a person for the purposes of this Act —

- (a) the person is taken to have attained a particular age expressed in years on the corresponding anniversary of his or her birth (ignoring any fraction of a day);

- (b) a reference to the anniversary of the person’s birth in paragraph (a) is a reference to the day on which the anniversary occurs; and
- (c) if the person was born on 29 February in any year, then, in any subsequent year that is not a leap year, the anniversary of his or her birth is taken to be 28 February in that subsequent year.

Illustration

A person (*N*) is born on 21 July 2021. *N* is taken to attain 18 years of age on the first moment of 21 July 2039 (regardless of the time of the day at which *N* is born).”.

Repeal of section 8 and new Division 1 of Part 3

5. Section 8 of the Women’s Charter is repealed and the following Division and Division heading substituted therefor:

“Division 1 — Preliminary

Interpretation of this Part

8. In this Part, unless the context otherwise requires —

“maintenance order” means —

- (a) an order for the payment of a monthly allowance made or deemed to be made by a court under Part 8;
- (b) an order for the payment of periodical sums by way of maintenance or alimony to a wife or former wife or an incapacitated husband or incapacitated former husband, or by way of maintenance for the benefit of any child, under Part 10;
- (c) an order for maintenance made by the Syariah Court under the Administration of Muslim Law Act 1966; or
- (d) a maintenance order as defined in section 2 of the Maintenance Orders (Reciprocal Enforcement) Act 1975;

“marriage preparation programme” means a marriage preparation programme prescribed under section 21B(b).

Division 2 — Validity of marriages”.

Amendment of section 9

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6. Section 9 of the Women’s Charter is amended —

(a) by deleting the words “granted by the Minister under section 21”; and

(b) by deleting the words “under minimum age for marriage” in the section heading and substituting the words “below 18”.

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Amendment of section 10

7. Section 10 of the Women’s Charter is amended by deleting the word “Marriages” in the section heading and substituting the words “Avoidance of marriages”.

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Amendment of section 12

8. Section 12 of the Women’s Charter is amended —

(a) by deleting the words “and 22” in subsection (2) and substituting the words “, 11A and 13”; and

(b) by deleting paragraph (a) of subsection (3) and substituting the following paragraph:

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“(a) the sex of any party to a marriage as registered under the National Registration Act 1965 at the time of the marriage is prima facie evidence of the sex of the party; and”.

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Repeal and re-enactment of section 13

9. Section 13 of the Women’s Charter is repealed and the following section substituted therefor:

“Avoidance of marriages solemnised in Singapore without valid licence or by unauthorised person

13. A marriage solemnised in Singapore is void unless it is solemnised —

- 5 (a) on the authority of a valid marriage licence or a valid special marriage licence; and
- (b) by the Registrar or a licensed solemniser.”.

Repeal and re-enactment of sections 14 to 18 and new Division heading of Part 3

10 **10.** Sections 14 to 18 of the Women’s Charter are repealed and the following Division heading and sections substituted therefor:

 “*Division 3 — Pre-solemnisation process*

Notice of marriage

15 **14.**—(1) If 2 persons desire to marry in Singapore, one of them must give to the Registrar a notice of marriage in the prescribed form and manner.

(2) The Registrar must —

- (a) file and publish the notice of marriage; and
- 20 (b) keep the notice of marriage published until the earlier of the following occurs:
- (i) a marriage licence is issued to the 2 persons;
- (ii) the notice of marriage ceases to have effect.

Validity of notice of marriage

15.—(1) A notice of marriage ceases to have effect if —

- 25 (a) 3 months (or any longer prescribed period) have elapsed since the notice of marriage was given to the Registrar and the intended marriage has not been solemnised; or
- (b) the notice of marriage is cancelled by the Registrar.

- (2) The Registrar may cancel a notice of marriage if —
- (a) the intended marriage has not been solemnised;
 - (b) one of the parties has applied to the Registrar in the prescribed form and manner to cancel the notice of marriage; and 5
 - (c) the Registrar is satisfied that there is good reason to cancel the notice of marriage.
- (3) If a notice of marriage ceases to have effect —
- (a) any marriage licence issued in consequence of that notice of marriage is void; and 10
 - (b) a fresh notice of marriage must be given before the parties may lawfully marry.

Declaration by intending parties

16.—(1) Where a notice of marriage is given to the Registrar, each of the parties to the intended marriage must also submit to the Registrar a declaration in the prescribed form and manner. 15

(2) The form prescribed for the purpose of subsection (1) must provide for a party (*X*) to declare —

- (a) whether the parties to the intended marriage are prevented from marrying by this Act or any other law; 20
- (b) if any party is not a citizen or permanent resident of Singapore — whether *X* has been physically present in Singapore for the prescribed period before the date of the notice of marriage;
- (c) if the parties are required to attend and complete a marriage preparation programme — whether the parties have done so; 25
- (d) if *X* was previously married but has been divorced — whether *X* owes any arrears in respect of any maintenance which is payable under a maintenance order; and 30

(e) whether *X* has been convicted of an offence under any of the following provisions:

(i) section 6A (marrying again during lifetime of husband or wife);

5 (ii) section 57C(1) of the Immigration Act 1959 (entering into marriage of convenience);

(iii) section 494 of the Penal Code 1871 (marrying again during lifetime of husband or wife) as in force immediately before 1 January 2020.

10 **Issue of marriage licence**

17.—(1) Subject to the provisions of this Division, the Registrar must issue a marriage licence after —

(a) a notice of marriage is given to the Registrar;

15 (b) the parties to the intended marriage have each submitted the declaration required by section 16; and

(c) the prescribed fee is paid.

(2) A marriage licence must be issued —

(a) after the expiry of 21 days from the date of the notice of marriage; and

20 (b) before the notice of marriage ceases to have effect.

(3) In any prescribed class of cases, a decision whether to issue a marriage licence may be made by the operation of a computer program for which the Registrar is responsible.

25 (4) A decision made under subsection (3) by the operation of a computer program —

(a) is taken to be a decision of the Registrar; but

(b) may, within the prescribed time and subject to any prescribed conditions, be —

(i) reviewed by the Registrar; and

- (ii) confirmed, cancelled or substituted by the Registrar by written notice to the affected parties.

Conditions for issuing marriage licence

18.—(1) The Registrar must not issue a marriage licence unless the Registrar is satisfied that — 5

- (a) the parties to the intended marriage are not prevented from marrying by this Act or any other law;
- (b) if the parties are required to attend and complete a marriage preparation programme — they have done so; 10
- (c) if any party is not a citizen or permanent resident of Singapore — at least one of the parties has been physically present in Singapore for the prescribed period before the date of the notice of marriage; and 15
- (d) no party has made a false declaration under section 16(1) in respect of the matters in section 16(2)(d) or (e).

(2) The Registrar may, if satisfied that there are good reasons to do so, waive the requirement in subsection (1)(c). 20

(3) In deciding whether to issue a marriage licence, the Registrar may —

- (a) rely on the declarations made by the parties to the intended marriage under section 16;
- (b) interview the parties or require them to provide any information or evidence that the Registrar may require; or 25
- (c) make any inquiry.”.

Amendment of section 19

11. Section 19 of the Women’s Charter is amended — 30

- (a) by deleting the word “licence” in subsection (1) and substituting the words “marriage licence”;

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

“(2) A caveat under subsection (1) must —

(a) state the grounds of objection on which the caveat is founded;

(b) state any prescribed information; and

(c) be signed by the person entering the caveat.”; and

(c) by inserting, immediately after the word “Caveat” in the section heading, the words “against issue of marriage licence”.

Amendment of section 20

12. Section 20(1) of the Women’s Charter is amended by deleting the word “licence” wherever it appears and substituting in each case the words “marriage licence”.

Amendment of section 21

13. Section 21 of the Women’s Charter is amended —

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

“(1) Subject to the provisions of this Division, the Minister may grant a special marriage licence to 2 parties for either or both of the following purposes:

(a) to authorise the parties to marry without giving a notice of marriage or being issued a marriage licence;

(b) to authorise the parties to marry even though one or both of them are below 18 years of age.

(2) If 2 parties seek a special marriage licence, each of them must submit to the Minister a declaration in the prescribed form, which declaration must include the matters mentioned in section 16(2).

(2A) The Minister must not grant a special marriage licence unless the Minister is satisfied that —

- (a) apart from any impediment under section 9, the parties to the intended marriage are not prevented from marrying by this Act or any other law; 5
- (b) if the parties are required to attend and complete a marriage preparation programme — they have done so;
- (c) if any party is not a citizen or permanent resident of Singapore — at least one of the parties has been physically present in Singapore for the prescribed period before his or her declaration under subsection (2); and 10 15
- (d) no party has made a false declaration under subsection (2) in respect of the matters mentioned in section 16(2)(d) or (e).”; and

(b) by deleting subsection (5).

New sections 21A and 21B

14. The Women’s Charter is amended by inserting, immediately after section 21, the following sections:

“Consents required for licences for minors who have not previously married

21A.—(1) The Registrar must not issue a marriage licence for the marriage of a minor unless one of the following conditions is satisfied in relation to each person mentioned in the Second Schedule as a person whose consent is required for the marriage of the minor: 25

- (a) the person consents to the marriage; 30
- (b) the person refuses to consent to the marriage but the court consents to the marriage in lieu of the person;

(c) the Registrar —

(i) is satisfied that the consent of the person cannot be obtained because the person is absent, inaccessible or under a disability; and

5 (ii) dispenses with the consent of the person.

(2) The Minister must not grant a special marriage licence for the marriage of a minor unless one of the following conditions is satisfied in relation to each person mentioned in the Second Schedule as a person whose consent is required for the marriage of the minor:

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(a) the person consents to the marriage;

(b) the person refuses to consent to the marriage but the court consents to the marriage in lieu of the person;

(c) the Minister —

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(i) is satisfied that the consent of the person cannot be obtained because the person is absent, inaccessible or under a disability; and

(ii) dispenses with the consent of the person.

(3) Where an application is made to the court for the purposes of subsection (1)(b) or (2)(b) —

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(a) notice of the application must be served on the person who refused to give consent;

(b) the application must be heard in chambers; and

(c) there is no appeal from the order of the court.

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(4) This section does not apply to a minor who —

(a) was previously in a marriage that has been dissolved or annulled; or

(b) is a widower or a widow.

(5) In this section and the Second Schedule, “minor” means a person who is below 21 years of age.

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Marriage preparation programme

21B. For the purposes of this Division, the Minister may, by rules made under section 180, prescribe —

- (a) one or more classes of persons who are required to attend and complete a marriage preparation programme before they may marry; and 5
- (b) what constitutes a marriage preparation programme.”.

Repeal and re-enactment of sections 22, 23 and 24 and new Division 4 of Part 3

15. Sections 22, 23 and 24 of the Women’s Charter are repealed and the following Division and sections substituted therefor: 10

“Division 4 — Solemnisation

Who may solemnise a marriage

22.—(1) A marriage may be solemnised by the Registrar or a licensed solemniser. 15

(2) For the purposes of subsection (1), the Minister may grant a licence to any suitable person to solemnise marriages in Singapore.

(3) A licensed solemniser is deemed to be a public servant within the meaning of the Penal Code 1871. 20

How is a marriage solemnised

23.—(1) Subject to section 24, a marriage must be solemnised with all the following persons in the presence of each other in Singapore:

- (a) the parties to the intended marriage; 25
- (b) the Registrar or a licensed solemniser;
- (c) at least 2 credible witnesses.

(2) The Registrar or licensed solemniser —

- (a) must ask the man whether he is willing to take the woman as his wife; 30

(b) must ask the woman whether she is willing to take the man as her husband; and

(c) must not solemnise the marriage unless the Registrar or the licensed solemniser is satisfied that both parties freely consent to the marriage.

(3) Subject to this section, the Registrar or licensed solemniser may adopt any form and ceremony.

Registrar may permit remote solemnisation in certain circumstances

24.—(1) The Registrar may give permission for a marriage to be remotely solemnised using a live video or live television link if —

(a) the parties to the intended marriage, the person solemnising the marriage and the witnesses will be in Singapore during the solemnisation; and

(b) the Registrar is satisfied that —

(i) there are exceptional circumstances that prevent the parties from solemnising their marriage in the presence of each other, the person solemnising the marriage or the witnesses; and

(ii) it is otherwise appropriate to give permission.

(2) In giving permission under subsection (1), the Registrar may specify —

(a) the remote communications technology that is to be used to create the live video or live television link between the parties to the intended marriage, the person solemnising the marriage and the witnesses;

(b) the locations at which the parties, the person solemnising the marriage and the witnesses are to be present; and

(c) the administrative and technical facilities and arrangements to be put in place at those locations.”.

Amendment of section 25

16. Section 25 of the Women’s Charter is amended by deleting the word “after” and substituting the words “on or after”.

Amendment of section 26

17. Section 26 of the Women’s Charter is amended —

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(a) by deleting the words “or an Assistant Registrar of Marriages” in subsection (1);

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

“(2) The Minister may appoint by name or office any number of public officers that may be necessary to be Assistant Registrars of Marriages for the purposes of this Act.”;

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(c) by deleting subsection (4); and

(d) by deleting the words “Assistant Registrars and Deputy Registrars” in the section heading and substituting the word “etc.”.

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Amendment of section 27

18. Section 27 of the Women’s Charter is amended by deleting subsection (3).

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Repeal of sections 28 to 32 and re-enactment of sections 28 to 31

19. Sections 28 to 32 of the Women’s Charter are repealed and the following sections substituted therefor:

“Registration of marriage solemnised by Registrar or licensed solemniser

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28.—(1) After the Registrar solemnises a marriage, the Registrar must register the marriage in the State Marriage Register.

(2) After a licensed solemniser solemnises a marriage —

(a) the licensed solemniser must register the marriage in the State Marriage Register; and

5 (b) if the licensed solemniser fails to do so within a reasonable time, the Registrar or another licensed solemniser may register the marriage in the State Marriage Register.

(3) For the purposes of subsection (2)(b), the Registrar or other licensed solemniser may require the parties to —

10 (a) appear in person before the Registrar or other licensed solemniser;

(b) provide any oral or documentary evidence of the marriage that the Registrar or other licensed solemniser may require; and

15 (c) provide any information required by the Registrar or other licensed solemniser to —

(i) decide whether the marriage may be registered;
or

(ii) register the marriage.

20 **Certain marriages solemnised outside Singapore may be registered**

29.—(1) Subject to subsection (2), where a marriage is solemnised outside Singapore on or after 15 September 1961 —

25 (a) the parties to the marriage may apply to the Registrar in the prescribed form to register the marriage; and

(b) the Registrar may register the marriage in the State Marriage Register.

(2) The Registrar must not register a marriage under this section if the Registrar is satisfied that —

30 (a) the marriage is void under the provisions of this Act;

(b) neither party to the marriage is a citizen or permanent resident of Singapore; or

(c) any information or evidence provided by the parties is false in any material particular.

(3) For the purposes of this section, the Registrar may require the parties to the marriage to —

(a) appear in person before the Registrar; 5

(b) provide any oral or documentary evidence of the marriage that the Registrar may require; and

(c) provide any information required by the Registrar to —

(i) decide whether the marriage may be registered; 10
or

(ii) register the marriage.

Certificate of marriage to be created upon registration, etc.

30.—(1) This section applies where a marriage is registered in the State Marriage Register on or after the commencement of section 19 of the Women’s Charter (Amendment) Act 2022. 15

(2) After the marriage is registered, the Registrar must —

(a) cause a record to be created, in the form of a certificate of marriage, in the State Marriage Register; 20

(b) notify the parties to the marriage; and

(c) if the parties so require, provide them with a copy of the certificate of marriage.

Correction of errors

31. If the Registrar is satisfied that there is an error in form or substance in any record or information contained in the State Marriage Register, the Registrar may correct the error.”. 25

Amendment of heading to Part 5

20. Part 5 of the Women’s Charter is amended by deleting the words “PENALTIES AND MISCELLANEOUS PROVISIONS” in the Part heading and substituting the word “OFFENCES”.

5 **Amendment of section 34**

21. Section 34(1) of the Women’s Charter is amended —

(a) by deleting the words “, being required by section 29 to appear before a Deputy Registrar, fails to do so within the prescribed time” and substituting the words “fails to appear before the Registrar or a licensed solemniser after being required to do so under section 28(3)”; and

(b) by deleting the words “Deputy Registrar” in the section heading and substituting the words “Registrar or licensed solemniser”.

15 **Repeal and re-enactment of section 35**

22. Section 35 of the Women’s Charter is repealed and the following section substituted therefor:

“Issuing false copies or extracts

35.—(1) A person (not being the Registrar) must not issue any document that purports to be —

(a) a copy of, or an extract from, any record or information contained in the State Marriage Register; and

(b) issued by the Registrar.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in the case of a second or subsequent conviction, to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years or to both.”.

Amendment of section 37

23. Section 37 of the Women’s Charter is amended —

- (a) by deleting the words “signs any false notice or certificate” and substituting the words “intentionally provides any false information or document”; and
- (b) by deleting the words “False oath, etc.,” in the section heading and substituting the words “Intentional falsehoods”.

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Amendment of section 40

24. Section 40 of the Women’s Charter is amended —

- (a) by deleting the words “or officiates at” in subsection (1);
- (b) by deleting paragraphs (a), (b) and (c) of subsection (1) and substituting the following paragraphs:

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“(a) without a valid marriage licence or a valid special marriage licence; or

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(b) without at least 2 credible witnesses —

(i) present; or

(ii) in remote communication with the parties in accordance with section 24.”;

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(c) by deleting the words “section 16” in subsection (2)(a) and substituting the words “section 14(2)(a)”; and

(d) by deleting the words “section 17” in subsection (2)(c) and substituting the words “section 18”.

Amendment of section 41

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25. Section 41 of the Women’s Charter is amended —

- (a) by inserting the word “or” at the end of paragraphs (a)(i), (b)(ii) and (c)(ii);
- (b) by deleting the word “or” at the end of paragraph (a)(ii);
- (c) by deleting sub-paragraph (iii) of paragraph (a);

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- (d) by deleting sub-paragraph (iii) of paragraph (b);
- (e) by deleting sub-paragraph (iii) of paragraph (c); and
- (f) by deleting the words “, or any copy of or extract from any certificate of marriage,” in paragraphs (b)(iv) and (c)(iv).

5 **Repeal of section 43**

26. Section 43 of the Women’s Charter is repealed.

Repeal and re-enactment of Part 6

27. Part 6 of the Women’s Charter is repealed and the following Part substituted therefor:

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“PART 6

RIGHTS AND DUTIES OF HUSBAND AND WIFE

Division 1 — Rights and duties

Duty to cooperate

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46. A husband and wife are mutually bound to cooperate with each other in —

- (a) safeguarding the interests of the union; and
- (b) caring and providing for the children.

Right to separately engage in trade, etc.

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47. A husband and wife have the right separately to engage in any trade or profession or in social activities.

Equal rights in running matrimonial household

48. A husband and wife have equal rights in the running of the matrimonial household.

Equal shares in money and property derived from housekeeping allowance

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49. Subject to any contrary agreement between a husband and wife —

(a) money derived from any allowance made by the husband for the expenses of the matrimonial home or for similar purposes; and

(b) property acquired using that money,

are to be treated as belonging to the husband and wife in equal shares. 5

Division 2 — Abolition of common law disabilities imposed on married women, etc.

Married women have same rights, etc., as married men

50.—(1) Unless otherwise provided in any written law, the rights, privileges, powers, capacities, duties and liabilities of a married woman are, for all the purposes of the law of Singapore (whether substantive, procedural or otherwise), the same in all respects as those of a married man, whether she is acting in a personal, official, representative, fiduciary or other capacity. 10 15

(2) Subsection (1) is not limited by the provisions of this Division.

Married women may use own surname and name

51. A married woman may use her own surname and name separately. 20

Abolition of married woman's dependent domicile

52.—(1) Subject to subsection (2), the domicile of a married woman —

(a) is to be ascertained in the same way as the domicile of any other individual capable of having an independent domicile; and 25

(b) must not be taken to be the same as her husband's just because they are married.

(2) If a married woman had her husband's domicile by dependence immediately before 1 June 1981, she retains that domicile (as a domicile of choice, if it is not also her domicile of 30

origin) unless it is changed by the acquisition or revival of another domicile on or after that date.

Abolition of separate property

53.—(1) Subject to subsection (2), property that —

5 (a) belongs to a woman married on or after 15 September 1961 at the time of her marriage;

 (b) is acquired by or devolves upon a married woman on or after 15 September 1961; or

10 (c) immediately before 15 September 1961 was the property (including the separate property) of a married woman or held for her separate use in equity,

belongs to her in all respects as if she were not married and may be disposed of accordingly.

15 (2) Subsection (1) does not affect the right of any married woman to any property that she had immediately before 15 September 1961.

Abolition of restrictions on anticipation or alienation

54. Any instrument (whether executed before, on or after 15 September 1961) is void insofar as —

20 (a) it purports to attach a restriction on anticipation or alienation to the enjoyment of any property by a woman; and

 (b) the restriction could not have been attached to the enjoyment of that property by a man.

Husband and wife may sue each other in tort

25 **55.** Subject to section 57, a husband and wife may sue each other in tort as if they were not married.

*Division 3 — Procedure in certain cases***Summary procedure for deciding questions between husband and wife as to property**

56.—(1) This section applies where there is a question between a husband and wife as to the title to or possession of any property. 5

(2) Either party may apply to the court by summons or in any other summary way.

(3) In an application under subsection (2), the court may —

(a) make any order — 10

(i) with respect to the property in dispute; and

(ii) as to the costs of the application; or

(b) direct —

(i) the application to stand over; and

(ii) an inquiry to be made into the disputed matters. 15

(4) An application under subsection (2) —

(a) may be heard in chambers if either party so requires; and

(b) may be made at any time —

(i) during the subsistence of the marriage; or 20

(ii) within 3 years after the marriage is dissolved or annulled.

Power of court to stay tort action between husband and wife, etc.

57. Where a husband sues his wife in tort (or vice versa) during the subsistence of the marriage, the court may — 25

(a) stay the action if it appears that —

(i) neither party would substantially benefit from the continuation of the proceedings; or

(ii) the dispute could be more conveniently resolved in an application under section 56(2);
or

(b) exercise the powers under section 56(3).”.

5 **Amendment of section 94**

28. Section 94(4) of the Women’s Charter is amended by deleting the words “Conciliation Officer” and substituting the words “conciliation officer”.

Repeal and re-enactment of section 95 and new section 95A

10 **29.** Section 95 of the Women’s Charter is repealed and the following sections substituted therefor:

“Divorce may be granted only if marriage has irretrievably broken down, etc.

15 **95.—**(1) Either party to a marriage may apply to the court for a divorce.

(2) A divorce is to be granted if and only if the court is satisfied that —

(a) the marriage has irretrievably broken down; and

20 (b) it is just and reasonable to grant the divorce, having regard to all relevant circumstances, including —

(i) the conduct of the parties; and

(ii) how a divorce would affect the parties and any child of the marriage.

25 (3) The court must dismiss an application for divorce if it is not satisfied as to the matters in subsection (2).

(4) The court may grant an interim judgment for divorce (which may be subject to terms).

What constitutes the irretrievable breakdown of a marriage

95A.—(1) For the purposes of this Act, a marriage between *X* and *Y* is taken to have irretrievably broken down if and only if—

- (a) *X* has committed adultery and *Y* finds it intolerable to live with *X*; 5
- (b) *X* has behaved in such a way that *Y* cannot reasonably be expected to live with *X*;
- (c) *X* has deserted *Y* for a continuous period of 2 or more years immediately before the application for divorce; 10
- (d) *X* and *Y* —
 - (i) have lived apart for a continuous period of 3 or more years immediately before the application for divorce; and
 - (ii) consent to a divorce being granted by the court; 15
- (e) *X* and *Y* have lived apart for a continuous period of 4 or more years immediately before the application for divorce; or
- (f) subject to subsection (6)(c), *X* and *Y* agree that the marriage has irretrievably broken down. 20

(2) For the purposes of subsection (1)(a) —

- (a) if *Y* continues to live together with *X* for a total of 6 months or less despite knowing that *X* has committed an act of adultery, the fact that *Y* continued to live with *X* must be ignored in deciding whether *Y* finds it intolerable to live with *X*; and 25
- (b) if *Y* continues to live together with *X* for more than 6 months despite knowing that *X* has committed an act of adultery, *Y* may not rely on that act of adultery. 30

(3) For the purposes of subsection (1)(b), if *Y* continues to live together with *X* for a total of 6 months or less after the most recent instance of the relevant behaviour by *X*, the fact that *Y*

continued to live together with *X* must be ignored in deciding whether *Y* can reasonably be expected to live with *X*.

(4) For the purposes of subsection (1)(c) —

(a) a period of desertion is still taken to be continuous even if *X* and *Y* lived together for a total of 6 months or less during that period; but

(b) the period during which *X* and *Y* lived together does not count towards the length of the period of desertion.

(5) For the purposes of subsection (1)(d) and (e) —

(a) a period of living apart is still taken to be continuous even if *X* and *Y* lived together for a total of 6 months or less during that period; but

(b) the period during which *X* and *Y* lived together does not count towards the length of the period of living apart.

(6) For the purposes of subsection (1)(f) —

(a) an agreement must be in writing and must state the following matters:

(i) the reasons leading *X* and *Y* to conclude that their marriage has irretrievably broken down;

(ii) the efforts *X* and *Y* have made to reconcile;

(iii) the consideration *X* and *Y* have given to the arrangements to be made in relation to their financial affairs and any child of the marriage;

(b) the court must consider the stated matters in deciding whether to exercise its powers under Divisions 3 and 4 of Part 10A (amicable settlement of disputes); and

(c) the court must not accept the agreement if it considers, in all the circumstances of the case, that there remains a reasonable possibility that *X* and *Y* might reconcile.

(7) In this section, “live together” means live together in the same household.”.

Repeal and re-enactment of section 98

30. Section 98 of the Women’s Charter is repealed and the following section substituted therefor:

5

“Relief for other party in divorce proceedings

98.—(1) This section applies where —

- (a) one party to a marriage (*X*) applies for a divorce; and
- (b) the other party to the marriage (*Y*) alleges and proves that the marriage has irretrievably broken down.

10

(2) The court may give to *Y* any relief to which *Y* would be entitled if *Y* had applied for a divorce.”.

New section 100A

31. Part 10 of the Women’s Charter is amended by inserting, immediately after section 100 in Chapter 1, the following section:

15

“Rescission of interim judgment in certain circumstances where one party misled by other party

100A.—(1) This section applies where —

- (a) the court has granted an interim judgment of divorce; and
- (b) the interim judgment is given only on the ground that the marriage has irretrievably broken down under the circumstances mentioned in section 95A(1)(*d*) or (*f*) (and under no other circumstances).

20

(2) The court may rescind the interim judgment if —

25

- (a) the court is satisfied that —
 - (i) the party who applied for divorce (*X*) misled (whether intentionally or not) the other party (*Y*) about any matter; and

(ii) *Y* took that matter into account in consenting to the grant of the divorce or agreeing that the marriage has irretrievably broken down, as the case may be; and

5 (b) *Y* has applied for rescission of the interim judgment at any time before the interim judgment is made final.”.

Amendment of section 101

32. Section 101 of the Women’s Charter is amended by deleting subsection (1) and substituting the following subsection:

10 “(1) Either party to a marriage may apply for judicial separation on the ground and circumstances set out in section 95A, and sections 95 and 95A are to apply (with the necessary modifications) in relation to an application for judicial separation as they apply to an application for divorce.”.

Amendment of section 105

33. Section 105 of the Women’s Charter is amended —

(a) by deleting “22” in paragraph (a) and substituting “13”;

(b) by deleting the word “; or” at the end of paragraph (aa) and substituting a full-stop; and

20 (c) by deleting paragraph (b).

Amendment of section 108

34. The Women’s Charter is amended by renumbering section 108 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

25 “(2) To avoid doubt, subsection (1) does not prevent any provision of this Act from being construed, for the purposes of the rules of private international law, as —

(a) a forum mandatory provision; or

30 (b) representing a fundamental public policy of Singapore.”.

New sections 126A and 126B

35. The Women’s Charter is amended by inserting, immediately after section 126, the following sections:

“Enforcement of custody order, etc.

126A.—(1) This section applies where — 5

- (a) the court makes an order for a child to be placed in the custody, or the care and control, of a person; and
- (b) the child leaves, or is removed from, the physical custody of that person.

(2) To enforce the order, the court may — 10

- (a) order that the child be returned to the physical custody of the person mentioned in subsection (1)(a); and
- (b) direct the bailiff to seize the child and deliver the child to the physical custody of that person.

Enforcement of child access order 15

126B.—(1) This section applies where —

- (a) the court makes an order under section 126(2)(d) (called in this section the access order) giving a person (*X*) access to a child; and
- (b) the order is breached by the person (*Y*) who is 20 required by the order to give *X* access to the child.

(2) *X* may apply to the court to enforce the access order against *Y*.

(3) Without limiting any other power of the court, the court may do all or any of the following in an application under subsection (2): 25

- (a) order *Y* to give *X* additional access to the child to make up for the access denied to *X* as a result of the breach;
- (b) order *Y* to compensate *X* for any reasonable expenses 30 incurred by *X* as a result of the breach;

(c) order *X*, *Y* and the child (or any of them) to attend all or any of the following:

(i) counselling;

(ii) mediation;

5 (iii) a therapeutic or an educational programme specified by the court;

(iv) a family support programme as defined in section 139A;

10 (d) order *Y* to execute a bond, with or without sureties or security, as the court may determine, to secure *Y*'s future compliance with the access order;

(e) for every breach of the access order by *Y*, sentence *Y* to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

15 (4) To avoid doubt, an order under subsection (3)(a) must not give *X* more access than what *X* is entitled to under the access order.

20 (5) The court may, in making any order under subsection (3)(a), (b), (c) or (d) in respect of a breach of the access order —

(a) reserve the question whether *Y* should also be sentenced under subsection (3)(e) for that breach; and

(b) return to the question subsequently (without *X* having to make a fresh application).

25 (6) In respect of a breach of an access order, *X* may do either, but not both, of the following:

(a) make an application under subsection (2);

(b) bring proceedings to punish *Y* for contempt of court in respect of that breach.”.

New section 132A

36. Part 10 of the Women’s Charter is amended by inserting, immediately after section 132 in Chapter 5, the following section:

“Programmes for children

132A.—(1) In any proceedings for divorce, judicial separation 5
or nullity of marriage where the parties have a child falling
within a prescribed class of children, the court may advise one or
both parties to secure the child’s completion of a programme for
children.

(2) Advice under subsection (1) may be given at any stage of 10
the proceedings or after a final judgment has been granted.

(3) Despite the provisions of the Administration of Justice
(Protection) Act 2016, failure to comply with any advice under
subsection (1) is not a contempt of court.

(4) If any advice under subsection (1) is not complied with, the 15
court may make any order it sees fit.

(5) In this section, “programme for children” means any
programme, counselling, psychological service, assessment or
other activity —

(a) carried out for the purpose of helping a child handle 20
the impact of —

(i) the dissolution or annulment of his or her
parents’ marriage; or

(ii) his or her parents’ judicial separation; and

(b) the form, contents and duration of which are 25
determined by the Minister.”.

Repeal of section 136

37. Section 136 of the Women’s Charter is repealed.

New Part 10A

38. The Women’s Charter is amended by inserting, immediately 30
after section 139, the following Part:

“PART 10A

AMICABLE SETTLEMENT OF DISPUTES

*Division 1 — Preliminary***Interpretation of this Part**

- 5 **139A.** In this Part, unless the context otherwise requires —
- “counselling” does not include any counselling that is part
 of a programme for children as defined in section 132A;
- “family support programme” means any programme or
10 activity that seeks to address or resolve any relationship
 issue or relationship problem —
- (a) between spouses or former spouses;
- (b) between siblings; or
- (c) between parent and child;
- “proceedings” does not include criminal proceedings.

15 **Evidence of things done, etc., under Division 3 or 4 not
admissible**

- 139B.** Evidence of —
- (a) anything said or done;
- (b) any document prepared; or
- 20 (c) any information provided,
- in the course of or for the purpose of —
- (d) any attempt at reconciliation under section 139F; or
- (e) any mediation, counselling or family support
 programme undertaken under Division 4,
- 25 is not admissible in any court.

Division 2 — Conciliation officers

Appointment of conciliation officers

139C.—(1) The Minister may appoint a public officer to be a conciliation officer for the purposes of this Act.

(2) Notice of an appointment under subsection (1) must be published in the *Gazette*. 5

Settlement of differences between husband and wife by conciliation officers

139D.—(1) Either or both parties to a marriage may ask a conciliation officer for advice and assistance on any differences between them. 10

(2) A conciliation officer may, by written notice, require either or both parties to a marriage to meet the conciliation officer (either in person or otherwise) to settle any differences between them. 15

(3) A party required to meet a conciliation officer under subsection (2) is legally bound to —

- (a) do so; and
- (b) answer, to the best of the party's ability, any question by the conciliation officer in relation to the differences that have arisen in the marriage. 20

*Division 3 — Opportunity for reconciliation
in certain proceedings*

Proceedings to which this Division applies

139E. This Division applies to the following proceedings: 25

- (a) proceedings for divorce or judicial separation;
- (b) proceedings, brought by a party to a subsisting marriage, under section 56, 65, 66 or 69.

Court to consider, and may facilitate, reconciliation

139F.—(1) The court hearing the proceedings must from time to time consider whether the parties might reconcile, having regard to —

- 5 (a) the nature of the case;
 (b) the evidence; and
 (c) the parties' attitude.

10 (2) If the court considers that there is a reasonable possibility that the parties might reconcile, the court may do all or any of the following things to facilitate a possible reconciliation:

- (a) adjourn the proceedings;
 (b) if the parties consent, interview the parties in chambers (with or without their solicitors);
 (c) nominate a conciliation officer or some other suitable
 15 person or organisation to assist the parties;
 (d) advise the parties to attend a family support programme.

20 (3) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any advice given under subsection (2)(d) is not a contempt of court.

Resumption of proceedings

139G.—(1) If proceedings are adjourned by a court under section 139F(2)(a) —

- 25 (a) a party may make a request for the proceedings to resume, but only if at least 14 days (or any longer period specified by the court) have elapsed; and
 (b) the proceedings are to resume as soon as practicable after the request is made.

30 (2) If the proceedings resume, a judge who interviewed the parties under section 139F(2)(b) must not (except at the request of the parties to the proceedings) —

- (a) continue to hear the proceedings; or
- (b) determine the proceedings.

*Division 4 — Mediation, counselling and
family support programmes*

Mediation by consent

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139H.—(1) This section applies to any proceedings under this Act.

(2) The court may —

- (a) consider the possibility of a harmonious resolution; and
- (b) if the parties consent, refer the parties and their children (if any) for mediation by a person —
 - (i) agreed to by the parties; or
 - (ii) in default of agreement, appointed by the court.

10

**Mediation, counselling and family support programmes in
matrimonial proceedings involving prescribed persons**

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139I.—(1) This section applies to a case —

- (a) where proceedings are brought under Part 10; and
- (b) the parties —
 - (i) have one or more children below 21 years of age; and
 - (ii) fall within a prescribed class of persons.

20

(2) Without limiting any other power of the court, the court —

- (a) must, subject to subsection (3), make either or both of the following orders:
 - (i) an order for the parties or their children (or both) to attend mediation;
 - (ii) an order for the parties or their children (or both) to attend counselling; and

25

(b) may, at any stage of the proceedings and if the court considers that doing so is in the interests of the parties or their children, advise all or any of the following persons to attend a family support programme:

- 5
- (i) the parties;
 - (ii) their children;
 - (iii) any person falling within a prescribed class of persons.

10 (3) The court may dispense with the orders under subsection (2)(a) if the court considers that mediation or counselling would not be in the interest of the parties or their children, as the case may be.

15 (4) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any advice under subsection (2)(b) is not a contempt of court.

(5) If any order or advice under subsection (2) (other than advice to a person mentioned in subsection (2)(b)(iii)) is not complied with, the court may —

- 20
- (a) stay the proceedings until the order or advice has been complied with;
 - (b) order any party responsible for the non-compliance to pay the costs of the proceedings; or
 - (c) make any other order it sees fit.

25 **Mediation, counselling and family support programmes in other proceedings**

139J.—(1) This section applies to a case where —

- (a) proceedings are brought under this Act; and
- (b) section 139I does not apply.

30 (2) Without limiting any other power of the court, the court may, if it considers that doing so is in the interests of the parties and their children (if any) —

- (a) advise the parties or their children (or both) to attend mediation;
- (b) advise the parties or their children (or both) to attend counselling; or
- (c) advise all or any of the following persons to attend a family support programme:
 - (i) the parties;
 - (ii) their children (if any);
 - (iii) any person falling within a prescribed class of persons.

(3) Despite the provisions of the Administration of Justice (Protection) Act 2016, failure to comply with any advice under subsection (2) is not a contempt of court.

(4) If any advice under subsection (2) (other than advice to a person mentioned in subsection (2)(c)(iii)) is not complied with, the court may —

- (a) stay the proceedings until the advice has been complied with;
- (b) order any party responsible for the non-compliance to pay the costs of the proceedings; or
- (c) make any other order it sees fit.”.

Amendment of section 180

39. Section 180 of the Women’s Charter is amended —

- (a) by inserting, immediately after the words “the forms to be used” in subsection (1)(a), the words “and the fees payable”;
- (b) by inserting, immediately after paragraph (a) of subsection (1), the following paragraph:
 - “(aa) any matter relating to the making of a decision under section 17(3);”;

(c) by deleting the words “and the giving of certified copies” in subsection (1)(e) and substituting the words “of the State Marriage Register”;

(d) by inserting, immediately after paragraph (e) of subsection (1), the following paragraphs:

“(ea) the provision of copies of, or extracts from, any record or information contained in the State Marriage Register (including a copy or an extract that is certified by the Registrar to be a true copy or extract);

(eb) how an error in the State Marriage Register is to be corrected;”;

(e) by inserting, immediately after the word “matters” in subsection (1)(j), the words “permitted or”; and

(f) by deleting subsection (2) and substituting the following subsections:

“(2) Rules made under subsection (1) —

(a) must be presented to Parliament as soon as possible after publication in the *Gazette*; and

(b) may be revoked (wholly or partly) by a resolution of Parliament.

(2A) A resolution under subsection (2)(b) —

(a) must specify the date from which the rules are revoked; and

(b) may only be passed on a motion for which notice is given on or before the first available sitting day of Parliament after the expiry of one month after the date on which the rules were presented to Parliament.

(2B) If Parliament passes a resolution under subsection (2)(b) —

- (a) the rules are revoked with effect from the date specified in the resolution;
- (b) the revocation does not affect the validity of anything done before the specified date; and
- (c) the Minister is not prevented from making new rules.”.

5

Repeal and re-enactment of section 180A

40. Section 180A of the Women’s Charter is repealed and the following section substituted therefor:

10

“Protection from personal liability

180A.—(1) This section applies where an act is done or an omission is made —

- (a) by the Registrar in the exercise or purported exercise of a function of the Registrar under this Act;
- (b) by the Director-General —
 - (i) in the exercise or purported exercise of a function of the Director-General under this Act;
 - (ii) in the enforcement or purported enforcement of Part 7 or 11; or
 - (iii) in compliance or purported compliance with an order made by a court under this Act;
- (c) by a person (being a person appointed by and acting under the direction of the Director-General) —
 - (i) in the exercise or purported exercise of a function of the Director-General under this Act;
 - (ii) in the enforcement or purported enforcement of Part 7 or 11;
 - (iii) in compliance or purported compliance with an order made by a court under this Act; or

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(iv) in compliance or purported compliance with a direction given by the Director-General under this Act;

(d) by a licensed solemniser —

5 (i) in the solemnisation or purported solemnisation of a marriage under this Act; or

(ii) in relation to the registration of a marriage under this Act;

10 (e) by a person (being a person appointed by the Minister for the purposes of section 65(2)(b)) in the exercise or purported exercise of the person's function of making an application for a protection order under section 65 or an expedited order under section 66;

15 (f) by a conciliation officer in the course of assisting or advising the parties to a marriage, under section 94(4), 139D or 139F, on any differences between them;

20 (g) by any person in the course of conducting any mediation, counselling or family support programme under Division 4 of Part 10A;

(h) by any person in a place of safety in compliance or purported compliance with —

(i) any direction given by the Director-General under this Act; or

25 (ii) any order made by a court under this Act;

(i) by a person (being an officer appointed by the Minister under section 176) in the exercise or purported exercise of a function of the Director-General under Part 11;

30 (j) by a person (being a member of the Board of Visitors appointed by the Minister under section 178) —

- (i) in the exercise or purported exercise of a function of the Board of Visitors under this Act; or
- (ii) in compliance or purported compliance with any direction given by the Minister under section 178(5); 5
- (k) by a person (being a member of the Discharge Committee appointed by the Minister under section 179) in the exercise or purported exercise of a function of the Discharge Committee under this Act; or 10
- (l) by a person (being a person appointed by a court or pursuant to an order of a court under this Act) in compliance or purported compliance with an order made by a court under this Act. 15

(2) No liability shall lie personally against the person who did the act or made the omission if the act was done or the omission was made in good faith and with reasonable care.

(3) In this section, a reference to the exercise of a function includes a reference to the exercise of a power or the performance of a duty.”. 20

Amendment of section 182

41. Section 182 of the Women’s Charter is amended —

- (a) by inserting, immediately after the word “usage” in subsection (1), the words “before 15 September 1961”; 25
- (b) by inserting, immediately after subsection (1), the following subsection:
 - “(1A) The parties to a marriage validated by section 184 may apply to the Registrar in the prescribed form to register the marriage.”; 30
- (c) by deleting the words “by entering the particulars thereof in the certificate of marriage” in subsection (3) and substituting the words “in the State Marriage Register”;

(*d*) by deleting subsection (4); and

(*e*) by deleting the words “under religion or custom” in the section heading and substituting the words “before 15 September 1961 or validated by section 184”.

5 **Amendment of Second Schedule**

42. The Second Schedule to the Women’s Charter is amended —

(*a*) by deleting the Schedule reference and substituting the following Schedule reference:

“Section 21A”; and

10 (*b*) by deleting Part 3.

Related amendments to other Acts

43.—(1) Section 2 of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 is repealed.

15 (2) The COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 is repealed.

(3) The Guardianship of Infants Act is amended by inserting, immediately after section 5, the following section:

“Enforcement of child access order

5A.—(1) This section applies where —

20 (*a*) the court makes an order under section 5 (called in this section the access order) giving a person (*X*) access to a child; and

(*b*) the order is breached by the person (*Y*) who is required by the order to give *X* access to the child.

25 (2) *X* may apply to the court to enforce the access order against *Y*.

(3) Without limiting any other power of the court, the court may do all or any of the following in an application under subsection (2):

- (a) order *Y* to give *X* additional access to the child to make up for the access denied to *X* as a result of the breach;
 - (b) order *Y* to compensate *X* for any reasonable expenses incurred by *X* as a result of the breach; 5
 - (c) order *X*, *Y* and the child (or any of them) to attend all or any of the following:
 - (i) counselling;
 - (ii) mediation;
 - (iii) a therapeutic or an educational programme specified by the court; 10
 - (iv) a family support programme as defined in section 139A of the Women’s Charter 1961;
 - (d) order *Y* to execute a bond, with or without sureties or security, as the court may determine, to secure *Y*’s future compliance with the access order; 15
 - (e) for every breach of the access order by *Y*, sentence *Y* to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.
- (4) To avoid doubt, an order under subsection (3)(a) must not give *X* more access than what *X* is entitled to under the access order. 20
- (5) The court may, in making any order under subsection (3)(a), (b), (c) or (d) in respect of a breach of the access order — 25
- (a) reserve the question whether *Y* should also be sentenced under subsection (3)(e) for that breach; and
 - (b) return to the question subsequently (without *X* having to make a fresh application).
- (6) In respect of a breach of an access order, *X* may do either, but not both, of the following: 30
- (a) make an application under subsection (2);

(b) bring proceedings to punish *Y* for contempt of court in respect of that breach.”.

Saving and transitional provisions

44.—(1) Where a licence to solemnise marriages —

5 (a) is granted, before the date of commencement of section 5, under section 8 of the Women’s Charter in force immediately before that date; and

 (b) is in force immediately before that date,
that licence —

10 (c) is deemed to be granted under section 22(2) of the Women’s Charter as amended by this Act; and

 (d) has effect until it expires or is revoked.

 (2) A person who is a Conciliation Officer appointed under section 48(1) of the Women’s Charter immediately before the date
15 of commencement of section 38 is deemed to be a conciliation officer appointed under section 139C(1) of the Women’s Charter as amended by this Act until his or her appointment expires or is revoked.

 (3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by rules made under
20 section 180 of the Women’s Charter, 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.

 (4) Without limiting subsection (3), rules made for the purposes of that subsection may modify the application of the Women’s Charter
25 to or in relation to —

 (a) a notice of marriage given under section 14 of the Women’s Charter in force immediately before the date of commencement of section 10;

30 (b) a marriage licence issued under section 17 of the Women’s Charter in force immediately before the date of commencement of section 10;

- (c) a statutory declaration made for the purposes of section 17 of the Women’s Charter in force immediately before the date of commencement of section 10;
- (d) a caveat entered under section 19 of the Women’s Charter in force immediately before the date of commencement of section 11; 5
- (e) a special marriage licence granted under section 21 of the Women’s Charter in force immediately before the date of commencement of section 13;
- (f) a statutory declaration made for the purposes of section 21 of the Women’s Charter in force immediately before the date of commencement of section 13; 10
- (g) a certificate of marriage under section 28 or 29 of the Women’s Charter in force immediately before the date of commencement of section 19; and 15
- (h) permission given by the Registrar under section 2(1)(a) of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 in force immediately before the date of commencement of section 43(1). 20

EXPLANATORY STATEMENT

This Bill seeks to amend the Women’s Charter to —

- (a) simplify and update the provisions relating to the solemnisation and registration of marriages;
- (b) restate and rationalise the rights and duties of husbands and wives;
- (c) provide that the parties to a marriage may agree that the marriage has irretrievably broken down;
- (d) enhance the court’s enforcement powers in relation to custody and child access orders;
- (e) introduce programmes for children in matrimonial proceedings;

- (f) expand the classes of persons that may be advised by the court to attend family support programmes; and
- (g) make miscellaneous amendments.

The opportunity is also taken to improve the organisation and drafting of the affected provisions.

The Bill also makes related amendments to the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 and the Guardianship of Infants Act; and provides for the repeal of the former Act.

Clause 1 relates to the short title and commencement.

PART 1

SOLEMNISATION AND REGISTRATION OF MARRIAGES

Clauses 5 to 26, 41, 42 and 43(1) relate to the solemnisation and registration of marriages. The substantive changes are as follows.

In relation to the validity of marriages —

- (a) section 12(2) is amended to clarify that it does not validate any marriage contrary to section 11A; and
- (b) section 12(3)(a) is amended to permit a person's registered sex under the National Registration Act to be prima facie evidence of the person's sex. The registered sex could be stated on the person's physical identity card or in a digital form.

In relation to the pre-solemnisation process —

- (a) the validity of a notice of marriage may be extended from 3 months to such longer period as may be prescribed;
- (b) the Registrar of Marriages (called the Registrar) may cancel a notice of marriage on the application of any party. A notice of marriage may be cancelled at any time before the solemnisation of the intended marriage. When a notice of marriage is cancelled, any marriage licence issued in consequence of the notice becomes void and a fresh notice of marriage must be given if the parties still wish to marry;
- (c) where the intending parties to a marriage include a person who is neither a citizen nor a permanent resident of Singapore, the Minister may prescribe the minimum period for which at least one of the parties must be present in Singapore before notice of that marriage is given. This replaces the 15-day period now fixed by section 17(2)(a). The Registrar will be given the power to waive this requirement;

- (d) a statutory declaration is no longer required for the purposes of obtaining a marriage licence or a special marriage licence. A declaration in the prescribed form would suffice. Making a false declaration for the purposes of procuring a marriage remains an offence under section 37, which is amended to also cover intentionally providing any false information or document;
- (e) in prescribed classes of cases, decisions relating to the issue or refusal of a marriage licence may be made by the operation of a computer program for which the Registrar is responsible;
- (f) under the new provisions, it will be possible to complete the pre-solemnisation process online. However, the Registrar has the power to interview the parties (among other things) to decide whether there are grounds to refuse to issue a marriage licence;
- (g) the conditions for granting a special marriage licence are generally aligned to the conditions for issuing a marriage licence;
- (h) the new section 21A, which re-enacts section 13, makes clear that the requirement for parental consent, etc., does not apply to minors who were previously in a marriage that has been dissolved or annulled, and minors who are widowers or widows; and
- (i) Part 3 of the Second Schedule, relating to consent for the marriage of transferred children under the Children and Young Persons Act (Cap. 38, 1985 Ed.), is deleted. The concept of transferred children was abolished when that Act was repealed and re-enacted in 1993 and any transferred child would have attained the age of majority.

In relation to the solemnisation of marriages —

- (a) the new section 24 empowers the Registrar to give permission, in exceptional circumstances, for a marriage to be remotely solemnised. The parties, the person solemnising the marriage and the witnesses must all be in Singapore and must comply with conditions specified by the Registrar; and
- (b) the current section 24 is repealed and the Women's Charter will no longer regulate religious marriage ceremonies.

In relation to the registration of marriages in the State Marriage Register —

- (a) licensed solemnisers will be responsible for registering the marriages solemnised by them and there will no longer be a separate appointment of Deputy Registrar;
- (b) under the new section 28, registration will no longer require the submission of a certificate of marriage signed by the parties, the person solemnising the marriage and the witnesses in each other's physical

presence. This will enable registration to be done online. Under the new section 30, a certificate of marriage will be created by the Registrar after registration as a record in the State Marriage Register. A copy of the certificate of marriage must be made available to the parties, if they so require it; and

- (c) under the new section 29, a marriage solemnised outside Singapore may be registered if at least one party is a citizen or permanent resident of Singapore and the marriage is not one that is void under the Women's Charter. Consequently, registration under section 182 is expressly restricted to marriages solemnised before 15 September 1961 or validated by section 184.

PART 2

RIGHTS AND DUTIES OF HUSBAND AND WIFE

Clause 27 repeals and re-enacts Part 6 to restate and rationalise the rights and duties of husbands and wives and related matters.

Division 1 (new sections 46 to 49) relates to the rights and duties of husbands and wives. It re-enacts sections 46(1), (2) and (4) and 54. Sections 53 and 55 are not re-enacted. Those sections relate to the effect of loans and gifts between a husband and wife vis-à-vis their creditors. The general law of bankruptcy will apply instead.

Division 2 (new sections 50 to 55) restates and extends the provisions of Part 6 that abolished the common law doctrine of coverture (under which a married woman ceased to have any independent legal personality) and related doctrines.

The new section 50(1) states as a general principle that the rights, privileges, powers, capacities, duties and liabilities of a married woman are the same as those of a married man, unless otherwise provided in any written law. Because of this general principle, it is not necessary to re-enact sections 51, 56(1), 57(1), 60, 62 and 63, which addressed specific disabilities imposed on married women.

The new section 54 completely abolishes restrictions on anticipation and alienation, which restricted the ability of married women to deal with their property. It replaces section 52(3), which only abolished such restrictions if they were contained in instruments executed on or after 15 September 1961. Other jurisdictions have also completely abolished such restrictions: see e.g., the Married Women (Restraint upon Anticipation) Act 1949 of the United Kingdom (U.K. 1949, c. 78). With the complete abolition of such restrictions, the saving provisions in sections 52(2)(b) and (4) and 61 are no longer necessary. The power of the court under section 56(4) to order costs out of property subject to such restrictions is no longer necessary as well. Those provisions are therefore not re-enacted.

The new sections 51, 52, 53 and 55 re-enact sections 46(3), 47, 52(1) and (2)(a) and 58(1).

Division 3 (new sections 56 and 57) contains procedural provisions. It re-enacts sections 58(2) and (3) and 59. The provisions in section 56(1), (2) and (3) relating to criminal proceedings between husband and wife are not re-enacted. The Criminal Procedure Code will apply instead.

Sections 48, 49 and 50 are repealed and re-enacted as a new Part 10A (see clause 38).

PART 3

AGREEMENT THAT MARRIAGE HAS IRRETRIEVABLY BROKEN DOWN

Clause 29 repeals and re-enacts section 95 and inserts a new section 95A. The new section 95A(1)(f) and (6) enables parties to a marriage to agree that their marriage has irretrievably broken down for the purposes of the Women's Charter, in particular for the purposes of divorce and judicial separation.

An agreement for this purpose must state the parties' reasons for concluding that their marriage has irretrievably broken down, the efforts they have made to reconcile, and the consideration they have given to the arrangements to be made in relation to their financial affairs and any children of the marriage. The court must consider these matters in deciding whether to exercise its powers under Divisions 3 and 4 of the new Part 10A, e.g., to permit the parties a chance at reconciliation or to advise the parties to attend a family support programme.

The court must not accept an agreement that a marriage has irretrievably broken down if it considers that there remains a reasonable possibility that the parties might reconcile.

Clauses 30, 31, 32 and 37 make consequential amendments.

PART 4

PROGRAMMES FOR CHILDREN AND FAMILY SUPPORT PROGRAMMES

Clause 36 inserts a new section 132A under which the court may advise parties in matrimonial proceedings to secure their child's completion of a programme for children. Programmes for children are available for prescribed classes of children, and aim to help a child handle the impact of the dissolution or annulment of his or her parents' marriage or of his or her parents' judicial separation.

Clause 38 re-enacts sections 48, 49 and 50 as a new Part 10A (comprising new sections 139A to 139J) on the amicable settlement of disputes. The availability of family support programmes is expanded. Under the new section 139F(2)(d), the

court may advise parties to attend a family support programme to facilitate a possible reconciliation. Under the new sections 139I(2)(b) and 139J(2)(c), the court may advise prescribed persons (in addition to the persons mentioned in those sections) to attend a family support programme.

PART 5

ENFORCEMENT POWERS

Clause 35 inserts new sections 126A and 126B to expand the court's enforcement powers in relation to custody orders and child access orders. Under the new section 126A, the court is empowered to direct the bailiff to restore a child to the physical custody of the person in whose custody, or care and control, the child is placed. Under the new section 126B, the court's powers to enforce a child access order will include: ordering make-up access; ordering compensation; ordering the parties to take part in counselling, mediation and various programmes; ordering the execution of a bond; and punishment.

Clause 43(3) makes a related amendment to the Guardianship of Infants Act.

PART 6

MISCELLANEOUS

Clause 2 amends section 2(1) to support the various amendments to the Women's Charter.

Clause 3(a) inserts a new section 3(1A) to declare that the abolition of a married woman's dependent domicile, as restated by the new section 52, applies in ascertaining a woman's domicile for the purposes of deciding whether the Women's Charter applies to her.

Clause 4 inserts a new section 3A to provide how age is to be reckoned for the purposes of the Women's Charter.

Clause 33(c) deletes section 105(b). Section 105(b) restates, in part, the rules of private international law relating to the validity of marriages contracted outside Singapore. The restatement is not necessary because section 108 already makes clear that those rules continue to apply.

Clause 34 inserts a new section 108(2) to make clear that section 108 does not prevent any provision of the Women's Charter from being construed as a forum mandatory provision or as representing a fundamental public policy of Singapore. For example, certain provisions governing the validity of marriages could be so construed. If a provision is so construed, the application of foreign law will be displaced accordingly.

Clause 39 amends section 180 to expand the scope of the rule-making power in that section and to redraft the mechanism for Parliamentary revocation in plain English.

Clause 40 repeals and re-enacts section 180A to extend the protection from personal liability in the discharge of functions under the Act. The protection is extended to the Registrar of Marriages, Assistant Registrars of Marriages, licensed solemnisers and conciliation officers.

Clause 43(1) repeals section 2 of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020. The temporary measures in that section are no longer needed because the Women's Charter as amended by the Bill will provide for the extension of the validity of notices of marriages, as well as for the remote solemnisations of marriages in Singapore.

Clause 43(2) repeals the entire COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020. It will be brought into force when all the temporary measures in that Act are no longer needed.

Clause 44 contains saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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