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Administration of Muslim Law (Amendment) Bill

Bill No. 3/2022.

Read the first time on 10 January 2022.

A BILL

intituled

An Act to amend the Administration of Muslim Law Act 1966 and to make a related amendment to the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 (Act 23 of 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 Administration of Muslim Law (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 of the Administration of Muslim Law Act 1966 (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “Appeal Board”, the following definition:

10 ““attend” includes the appearance by any person using any electronic means of communication permitted by the Syariah Court, an Appeal Board, a Kadi or a Naib Kadi;”;

15 (b) by inserting, immediately after the definition of “Chief Executive”, the following definition:

““child of the parties” means any child of the parties to a marriage (including a purported marriage that is annulled), and includes any legally adopted child;”;

20 (c) by inserting, immediately after the definition of “daerah masjid”, the following definition:

““dependent child of the parties” means a child of the parties who is below 21 years of age;”;

25 (d) by inserting, immediately after the words “a certificate” in the definition of “halal certificate”, the words “or other form of signification”;

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

30 ““jawatankuasa masjid” means a committee of a daerah masjid appointed under rules made under section 86(1);” and

- (f) by deleting the words “Syariah Court” in the definition of “Register of Divorces” and substituting the words “registrar of the Syariah Court”.

New section 35B

3. The principal Act is amended by inserting, immediately after section 35A, the following section: 5

“Oral hearing not needed generally

35B.—(1) Subject to subsection (2), the Court or an Appeal Board may decide any matter in its jurisdiction without hearing oral arguments, other than a matter prescribed by any rules made under section 145. 10

(2) Subsection (1) does not allow any part of a proceeding where oral evidence is given (including any part of a trial of an action) to be conducted without an oral hearing, unless all the parties consent. 15

(3) Subject to subsection (4), the Court or an Appeal Board may, in any matter that the Court or Appeal Board may decide without hearing oral arguments, direct that the matter be heard in an asynchronous manner by exchange of written correspondence with the party or parties using such means of communications as directed by the Court or Appeal Board. 20

(4) The Court or an Appeal Board must not hear a matter in an asynchronous manner if to do so would be inconsistent with the duty of the Court or Appeal Board to ensure that the proceedings are conducted fairly to all parties. 25

(5) To avoid doubt, this section does not affect the power of the Court or an Appeal Board to hear oral arguments before deciding any matter that may be decided without hearing oral arguments.”.

Amendment of section 43A

4. Section 43A of the principal Act is amended — 30

- (a) by deleting subsections (1) to (4) and substituting the following subsections:

“(1) The Court before which any matter mentioned in section 35(2), 46B, 47, 48, 49, 51 or 52 is heard may, if the Court considers that doing so is in the interests of any of the parties or their children —

5 (a) order any of the parties or their children to attend counselling provided by a person the Court appoints, or advise any of the parties or their children to attend a family support programme or activity; or

10 (b) advise any person falling within a prescribed class of persons to attend a family support programme or activity.

15 (2) Where the Court has made an order or given advice under subsection (1)(a), the parties must comply with the order or advice.

 (3) If any order or advice under subsection (1)(a) is not complied with, the Court may make such further orders as the Court thinks fit.

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

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

25 (b) such order as to costs as the Court thinks appropriate against the party who fails to comply with the order under subsection (1)(a).”; and

30 (b) by deleting subsection (6).

New section 43C

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

“Programmes for children

43C.—(1) In any proceedings for divorce or nullity of marriage where there is a child of the parties, the Court may advise one or both parties to secure the child’s completion of a programme for children. 5

(2) Advice under subsection (1) may be given at any stage of the proceedings for divorce or nullity of marriage.

(3) Where the Court has given advice under subsection (1), every party to whom the advice was given must comply with the advice. 10

(4) If any advice under subsection (1) is not complied with, the 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 — 15

(a) carried out for the purpose of helping a child handle the impact of the dissolution or annulment of his or her parents’ marriage; and

(b) the form, contents and duration of which are determined by the Minister.”. 20

New section 45A

6. The principal Act is amended by inserting, immediately after section 45, the following section:

“Court or Appeal Board may conduct hearing through electronic means of communication

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45A.—(1) Without limiting section 46, the Court or an Appeal Board may conduct the hearing of any matter or proceeding (other than a matter or proceeding prescribed by any rules made under section 145) through a live video link, a live television link, a live audio link or any other electronic means of communication approved by the senior president of the Court or the person nominated to preside over the Appeal Board under section 55(4), as the case may be. 30

(2) The Court or an Appeal Board must not conduct any part of a hearing through a live audio link, without an accompanying live video link or live television link —

5 (a) where oral evidence is given during that part of the hearing (including in a trial of an action) unless all the parties consent; or

 (b) where the matter is prescribed by any rules made under section 145.

10 (3) For the purposes of subsection (2), the Court or Appeal Board is not considered to have conducted a part of a hearing of a matter through a live audio link only and without an accompanying live video link or live television link, by reason only of a temporary disruption in the accompanying live video link or live television link that was insignificant and which did not affect the duty of the Court or Appeal Board to conduct proceedings fairly.

15 (4) The Court or an Appeal Board must not conduct a hearing of a matter or proceeding in the manner provided under subsection (1), if to do so would be inconsistent with the duty of the Court or Appeal Board to ensure that the hearing is conducted fairly to all parties.

20 (5) The Court is deemed to be sitting at the place mentioned in section 44(1) or (2) (as the case may be) when the Court conducts a hearing of a matter or proceeding in the manner provided under subsection (1) (whether any president of the Court, the registrar of the Court or a deputy registrar of the Court is situated in Singapore or outside Singapore).

25 (6) An Appeal Board is deemed to be sitting at the place mentioned in any rules made under this Act when the Appeal Board conducts a hearing of a matter or proceeding in the manner provided under subsection (1) (whether any member of the Appeal Board is situated in Singapore or outside Singapore).”

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Amendment of section 46A

7. Section 46A of the principal Act is amended —

- (a) by deleting the words “child of the marriage” in subsection (5) and substituting the words “child of the parties”; and
- (b) by deleting the words “dependent child of the marriage” in the definition of “parenting plan” in subsection (12) and substituting the words “dependent child of the parties”.

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Amendment of section 46B

8. Section 46B(3) of the principal Act is amended by deleting the words “, on payment of the prescribed fees,”.

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Amendment of section 47

9. Section 47 of the principal Act is amended —

- (a) by deleting the words “on payment of the prescribed fees” in subsection (3); and
- (b) by deleting the words “and the prescribed fees” in subsection (4).

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Amendment of section 48

10. Section 48(2) of the principal Act is amended by deleting the words “upon payment of the prescribed fees,” in paragraph (c).

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Amendment of section 50

11. Section 50 of the principal Act is amended —

- (a) by deleting the words “arbitrators, or hakam,” in subsection (1) and substituting the word “hakam”;
- (b) by deleting the words “must where possible” in subsection (2) and substituting the words “may if it considers fit”;
- (c) by deleting the word “arbitration” in subsection (3) and substituting the word “proceedings”;

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

“(4) If the Court is not satisfied with the conduct of the proceedings by the hakam, the Court may remove one or both of the hakam and appoint other hakam in their place.”;

(e) by deleting the words “their arbitration” in subsection (5) and substituting the words “the proceedings”;

(f) by deleting the word “decree” in subsection (6) and substituting the word “pronounce”; and

(g) by deleting subsection (7) and substituting the following subsections:

“(7) Despite subsection (6), the hakam may pronounce a divorce in the absence of full authority from their respective principals if —

(a) the hakam are of the joint opinion that the parties should be divorced; and

(b) the Court has conferred authority on the hakam to pronounce a divorce at the time of appointing the hakam.

(8) If the hakam appointed under subsection (1) are unable to agree on whether the parties should be divorced and report this to the Court, the Court may appoint other hakam in their place or make such order or give such direction as the Court thinks fit.

(9) If the hakam appointed under subsection (4) or (8) are unable to agree on whether the parties should be divorced, the hakam must report this to the Court and the Court may make such order or give such direction as the Court thinks fit.

(10) To avoid doubt, this section applies to the hakam appointed under subsection (4) or (8) as it applies to the hakam appointed under subsection (1).

(11) Where a divorce is pronounced by the hakam under subsection (6) or (7), the Court is to make a decree of divorce and cause the decree to be registered.”.

Amendment of section 52

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12. Section 52(8) of the principal Act is amended —

- (a) by deleting the words “child of the marriage” in paragraph (b) and substituting the words “child of the parties”; and
- (b) by deleting the word “marriage” in paragraph (c) and substituting the word “parties”.

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Amendment of section 53

13. Section 53 of the principal Act is amended —

- (a) by deleting the words “subsection (1)” in subsection (3) and substituting the words “subsections (1) and (2)(b)”;
- (b) by deleting the words “that subsection” in subsection (3) and substituting the words “those provisions”; and
- (c) by deleting subsection (5).

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Amendment of section 54A

14. Section 54A of the principal Act is amended —

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

“(1) The Court or an Appeal Board may grant or refuse permission to use in proceedings before the Court or Appeal Board, or to bring into the Court or the place of the Appeal Board hearing, a recording device.”;

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- (b) by inserting, immediately after the words “The Court” in subsections (2) and (3), the words “or Appeal Board”;
- (c) by inserting, immediately after the words “as the Court” in subsection (2), the words “or Appeal Board”;

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(d) by deleting the words “in the Court” in subsections (3) and (6)(a) and substituting in each case the words “before the Court or Appeal Board”;

5 (e) by deleting the words “uses in or brings into the Court” in subsection (4)(a) and substituting the words “uses in proceedings before the Court or an Appeal Board or brings into the Court or the place of the Appeal Board hearing”;

(f) by inserting, immediately after the words “the Court” in subsection (5), the words “or Appeal Board”;

10 (g) by deleting the definition of “audio or visual recording” in subsection (7) and substituting the following definitions:

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

15 (a) any recording of a temporary nature, including (but not limited to) any such recording for the purposes of contemporaneous or instantaneous publication or transmission; and

20 (b) in relation to proceedings before the Court or an Appeal Board, an audio or visual recording of —

25 (i) a person participating in, viewing or listening to proceedings before the Court or Appeal Board; or

30 (ii) a person viewing or listening to an audio or visual recording of proceedings before the Court or Appeal Board;

“proceedings before the Court or an Appeal Board” includes proceedings before the Court or an Appeal Board, or any part of the

proceedings before the Court or Appeal Board, conducted through any electronic means of communication;” and

- (h) by deleting the words “in Court” in the section heading and substituting the words “in proceedings before Court or Appeal Board”.

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Amendment of section 54B

15. Section 54B of the principal Act is amended —

- (a) by inserting, immediately after the words “The Court” in subsection (1), the words “or an Appeal Board”;
- (b) by deleting the words “in the Court any person whose behaviour, in the opinion of the Court” in subsection (1) and substituting the words “before the Court or Appeal Board any person whose behaviour, in the opinion of the Court or Appeal Board (as the case may be)”;
- (c) by inserting, immediately after the words “the Court” in subsection (2), the words “or an Appeal Board”; and
- (d) by inserting, immediately after subsection (2), the following subsection:

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“(3) In this section, “proceeding before the Court or an Appeal Board” includes proceedings before the Court or an Appeal Board, or any part of the proceedings before the Court or Appeal Board, conducted through any electronic means of communication.”.

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Repeal and re-enactment of section 56B

16. Section 56B of the principal Act is repealed and the following section substituted therefor:

“Protection from personal liability

56B.—(1) Subsection (2) applies where an act is done or an omission is made —

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- 5 (a) by a president or member of the Court or an Appeal Board, or the registrar or a deputy registrar of the Court, in the discharge of his or her judicial duty, whether or not within the limits of his or her jurisdiction;
- (b) by the Registrar, a Deputy Registrar, a Kadi or a Naib Kadi in the exercise or purported exercise of any of his or her functions under this Act;
- 10 (c) by an authorised person for the purposes of any proceedings before the Court or an Appeal Board, or any mediation or other alternative dispute resolution process related to those proceedings;
- (d) by a child representative appointed to represent the interests of a child in any proceedings involving the child, or the custody and welfare of the child —
- 15 (i) for the purposes of those proceedings; or
- (ii) in any mediation or other alternative dispute resolution process related to those proceedings;
- (e) by an individual (being a registered medical practitioner, psychologist, counsellor, social worker or mental health professional) appointed by the Court to examine or assess a child for the purposes of preparing expert evidence for use in any proceedings involving the custody or welfare of that child —
- 20 (i) for the purposes of the examination or assessment; or
- (ii) for the purposes of preparing the expert evidence for use in those proceedings; or
- (f) by any person in the course of conducting any counselling, family support programme or activity, or programme for children under Part 3.
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(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) No liability shall lie personally against an officer of the Court or an Appeal Board, or any other person expressly authorised by the Court or an Appeal Board, charged with the duty of executing any writ, summons, warrant, order, notice or other mandatory process of the Court or Appeal Board, for the execution of or attempting to execute the writ, summons, warrant, order, notice or other mandatory process, or in respect of any damage caused to any property in effecting or attempting to effect execution, unless he or she knowingly acted in excess of the authority conferred upon him or her by the writ, summons, warrant, order, notice or other mandatory process. 5 10

(4) The officer or other person mentioned in subsection (3) is not deemed to have acted knowingly in excess of his or her authority merely by reason of the existence of a dispute as to the ownership of any property seized under any enforcement order or writ of distress. 15

(5) No liability shall lie personally against an authorised person for any loss or damage, suffered by any person by reason of any error or omission resulting from —

- (a) any malfunction in any electronic means of communication provided for in this Act, if the malfunction occurred despite the authorised person having acted in good faith and with reasonable care to prevent the malfunction; or 20
- (b) any fault or failure on the part of the person using the electronic means of communication. 25

(6) In this section —

- (a) a reference to the exercise of a function includes a reference to the exercise of a power or the performance of a duty; and 30
- (b) “authorised person” means —
 - (i) a member or an officer of the Court or an Appeal Board;
 - (ii) the registrar or a deputy registrar of the Court;

- (iii) a mediator appointed by the Court; or
- (iv) any other person expressly authorised by the Court or an Appeal Board to conduct any proceedings before the Court or Appeal Board, or any mediation or other alternative dispute resolution process related to those proceedings.”.

Amendment of section 86

17. Section 86 of the principal Act is amended by deleting the words “jawatankuasa daerah” in subsections (1)(a), (b) and (c) and (2) and in the section heading and substituting in each case the words “jawatankuasa masjid”.

Amendment of section 87

18. Section 87(9) of the principal Act is amended by inserting, immediately after the word “section”, the words “, including rules to prescribe the fees to be charged by the Majlis for the performance of its functions under this section”.

Amendment of section 88A

19. Section 88A of the principal Act is amended by deleting subsection (3) and substituting the following subsections:

“(3) The Majlis may —

- (a) in issuing a halal certificate, impose any condition or limitation that the Majlis thinks fit, which may be different for different halal certificates that relate to different products, services or activities; and
- (b) vary, remove or add to any condition or limitation mentioned in paragraph (a) at any time.

(3A) Without affecting subsection (3), the Majlis may, in issuing a halal certificate —

- (a) require an applicant to undergo either or both of the following services performed by or under the supervision of the Majlis:

- (i) a service to verify that food provided or to be provided to Muslims complies with halal requirements or other requirements in relation to halal certification;
 - (ii) a service for the cleansing of food utensils and crockery in accordance with Islamic rituals; and
- (b) provide either or both of these services to the applicant upon the payment of the prescribed fees.”.

Amendment of section 96

20. Section 96 of the principal Act is amended by inserting, immediately after subsection (5), the following subsections: 10

“(6) If any party to the intended marriage is not a citizen or permanent resident of Singapore, at least one of the parties must have been physically present in Singapore for the prescribed period before the date of the solemnisation. 15

(7) The Registrar may, if satisfied that there are good reasons to do so, waive the requirement in subsection (6).”.

Amendment of section 100

21. Section 100 of the principal Act is amended by deleting subsections (3) and (4) and substituting the following subsection: 20

“(3) The registrar of the Syariah Court —

- (a) must maintain a Register of Divorces containing the copies of the certificates of divorce issued by that Court; and
- (b) may keep the Register of Divorces in the form that the registrar of the Syariah Court may determine.”. 25

Amendment of section 102

22. Section 102 of the principal Act is amended by deleting the words “in the prescribed form” in subsections (2)(c) and (5)(b).

New sections 109A and 109B

23. The principal Act is amended by inserting, immediately after section 109 in Part 6, the following sections:

5 **“Marriages, divorces and revocation of divorces using electronic means of communication**

10 **109A.**—(1) Despite anything in section 95(2)(b) or (4), 101(6) or (8), 102(1)(a) or (2)(a) or 103(1), (3) or (5) requiring, or relating to, the presence or appearance of any person to perform any act, or to witness or attest the doing of anything under any of those provisions, such person is taken to be present or to appear for that purpose if —

- 15 (a) the person, with the permission of the Registrar, attends and performs that act, or witnesses or attests the doing of that thing, through the use of a live video link or live television link that is created using any electronic means of communication approved by the Registrar;
- 20 (b) the person complies with such conditions that the Registrar considers necessary or expedient to impose relating to the use of the electronic means of communication;
- 25 (c) the Registrar is satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located; and
- (d) all of the following persons are in Singapore:
- 30 (i) in relation to a marriage to which this Part applies — both parties to the marriage, the witnesses (if required) and the wali (if any) of the woman to be wedded;
- (ii) in relation to a revocation of divorce to which this Part applies — both parties to the revocation of divorce and the witnesses (if required).

(2) Despite section 49(6), the requirement for an entry in the Register of Divorces to be signed by the persons mentioned in that provision is deemed to be satisfied if the persons each sign the document required by the registrar of the Syariah Court, when communicating with one another using any electronic means of communication in accordance with this section. 5

(3) Despite section 102(1)(b) requiring any registration, or solemnisation and registration, of a marriage to be conducted at any place mentioned in that provision, that registration, or solemnisation and registration, may be conducted using any electronic means of communication in accordance with this section. 10

(4) Despite section 102(5) requiring the presence of any person to perform any act, such person is taken to be present for that purpose if — 15

(a) the person, with the permission of the senior president of the Court, attends and performs that act through the use of a live video link or live television link that is created using any electronic means of communication approved by the senior president of the Court; 20

(b) the person complies with such conditions that the senior president of the Court considers necessary or expedient to impose relating to the use of the electronic means of communication; and

(c) the senior president of the Court is satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located. 25

(5) Despite section 103(3), the requirement for an entry in the Register of Marriages, certificate of marriage, Register of Revocation of Divorces or certificate of revocation of divorce (as the case may be) to be signed by the persons mentioned in that provision is deemed to be satisfied if the persons each sign the document required by the Registrar, when communicating with one another using any electronic means of communication in accordance with this section. 30 35

Making of statutory declarations

109B. Despite section 11(1)(b) of the Oaths and Declarations Act 2000, a statutory declaration required for any purpose in section 43(b) or 109A may be made by a person appearing before another person, who is empowered under any written law to take or receive the statutory declaration, using any electronic means of communication —

(a) in the case of a statutory declaration required for any purpose in section 43(b) or 109A(2) or (4) — approved by the senior president of the Court; and

(b) in the case of a statutory declaration required for any purpose in section 109A(1), (3) or (5) — approved by the Registrar.”.

Amendment of section 139

24. Section 139(2) of the principal Act is amended by deleting the word “President” and substituting the word “Mufti”.

Repeal and re-enactment of sections 143 and 144

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

“Register of Marriages and Register of Revocation of Divorces

143.—(1) The Registrar must maintain a Register of Marriages and Register of Revocation of Divorces containing such records and information as the Registrar may determine on marriages solemnised or registered, or divorces revoked (as the case may be), under this Act.

(2) The Register of Marriages and Register of Revocation of Divorces may be kept in such form as the Registrar may determine.

(3) The following, if certified by the Registrar to be a true copy or extract, is in any proceedings admissible in evidence as of equal validity with the original document containing the information or the original record:

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

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Register of Divorces

144.—(1) Any person may, upon payment of the prescribed fee, apply for a copy of an entry in the Register of Divorces and the registrar of the Syariah Court may, if he or she thinks fit, issue the copy certified by him or her to be a true copy.

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

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Amendment of section 145

26. Section 145(2) of the principal Act is amended —

- (a) by inserting, immediately after paragraph (a), the following paragraph:

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“(aa) prescribing the manner in which, and the time within which, any application is to be made to the Syariah Court or an Appeal Board under this Act or any other written law;”;

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- (b) by deleting the word “and” at the end of paragraph (d); and
- (c) by deleting the full-stop at the end of paragraph (e) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

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“(f) prescribing the form and manner of an application for, and the issuance of, an inheritance certificate under section 115;

- (g) providing for the provision of copies of, or extracts from, any record or information contained in the Register of Marriages or Register of Revocation of Divorces (including a copy or an extract that is certified by the Registrar to be a true copy or extract); and
- (h) prescribing anything that is required or permitted under this Act to be prescribed.”.

Validation

27.—(1) This section applies to any sum collected, before the date of commencement of this section, purportedly as a fee or charge for —

(a) any of the following services provided by the Majlis pursuant to its functions under section 3(2) of the principal Act:

(i) a service to verify that food provided or to be provided to Muslims complies with halal requirements or other requirements in relation to halal certification;

(ii) a service for the cleansing of food utensils and crockery in accordance with Islamic rituals; and

(b) any application to the Majlis under rule 16 of the Administration of Muslim Law (Muslim Religious Schools) Rules 2016 to be a recognised Islamic teacher or recognised Quranic teacher, as defined in rule 2 of those Rules.

(2) Every sum mentioned in subsection (1) is, and is taken always to have been, by force of this section, validly collected; and no legal proceedings may be instituted on or after 10 January 2022 in any court on account of or in respect of any such collection.

Related amendment to COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020

28. Section 3 of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 is repealed.

Saving and transitional provisions

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29.—(1) For a period of 2 years after the date of commencement of any provision of this Act, the President of Singapore may by regulations prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the President may consider necessary or expedient.

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(2) Permission given by the Registrar of Muslim Marriages under section 3(1)(a) of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 as in force immediately before the date of commencement of section 28 of this Act is treated as permission given by the Registrar of Muslim Marriages under section 109A(1)(a) of the principal Act.

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(3) A statutory declaration required by the Syariah Court to be made under section 43(b) of the principal Act before the date of commencement of section 23 of this Act and made before that date in accordance with section 4 of the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 is treated as a declaration made under section 109B of the principal Act.

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(4) Sections 2(b), 7 and 12 of this Act do not affect any order or decision of the Syariah Court or an Appeal Board made, before the date of commencement of those sections, in relation to a child of the marriage.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Administration of Muslim Law Act 1966 (the Act) in 4 areas —

- (a) to enable the Syariah Court, an Appeal Board and the Registry of Muslim Marriages to use digital processes for court administration and solemnisations;

- (b) to update and streamline the administration of Muslim marriages and divorces;
- (c) to regularise the past collection of fees by the Majlis Ugama Islam, Singapura (the Majlis) for the provision of services in the exercise of its statutory functions; and
- (d) to update the administrative provisions relating to the Majlis.

The Bill also makes a related amendment to the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020 (Act 23 of 2020).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to introduce several new definitions and amend or substitute several existing definitions.

A definition of “attend” is introduced to provide that attendance includes the appearance by a person using any electronic means of communication permitted by the Syariah Court, an Appeal Board, a Kadi or a Naib Kadi.

A definition of “child of the parties” is introduced to provide that the term means any child of the parties to a marriage (including a purported marriage that is annulled), and includes any legally adopted child. A definition of “dependent child of the parties” is also introduced to provide that the term means a child of the parties who is below 21 years of age. The definition of “halal certificate” is amended to include forms of signification other than a certificate.

The definition of “jawatankuasa daerah”, which is no longer used in practice, is deleted and substituted with the modern term of “jawatankuasa masjid”.

The definition of “Register of Divorces” is amended to clarify that the Register of Divorces is kept by the registrar of the Syariah Court.

Clause 3 inserts a new section 35B to provide that the Syariah Court or an Appeal Board may decide any matter in its jurisdiction without hearing oral arguments, subject to prescribed exclusions, if any. A further limitation is that any part of a proceeding where oral evidence is given must not be conducted without an oral hearing unless all the parties consent. The new section 35B also enables the Syariah Court or an Appeal Board to direct that a matter heard without oral arguments be heard in an asynchronous manner by exchange of written correspondence, using means of communication directed by the Syariah Court or an Appeal Board. The Syariah Court or an Appeal Board must not hear a matter in an asynchronous manner if to do so would be inconsistent with its duty to ensure that the proceedings are conducted fairly to all parties.

Clause 4 amends section 43A by expanding the availability of family support programmes and activities. Under the amended section 43A, the Syariah Court may advise prescribed persons (in addition to any of the parties or their children)

to attend a family support programme or activity. It is not mandatory for prescribed persons to comply with the advice, and non-compliance will not result in any further orders by the Syariah Court, unlike non-compliance by parties.

Clause 5 inserts a new section 43C under which the Syariah Court may advise parties in matrimonial proceedings to secure their child's completion of a programme for children. Programmes for children are aimed to help a child handle the impact of the dissolution or annulment of his or her parents' marriage.

Clause 6 inserts a new section 45A to provide that the Syariah Court or an Appeal Board may conduct the hearing of any matter or proceeding through a live video link, a live television link, a live audio link, or any other electronic means of communication approved by the senior president of the Syariah Court or the person nominated to preside over the Appeal Board under section 55(4). This is subject to prescribed exclusions. Further limitations are that for such part of a hearing where oral evidence is given, there must be an accompanying live video link or live television link unless all parties consent to the hearing of the matter through a live audio link only. For certain prescribed matters (if any), it is mandatory to have an accompanying live video link or live television link. The Syariah Court or an Appeal Board must not conduct a hearing through electronic means of communication if to do so would be inconsistent with its duty to ensure that the hearing is conducted fairly to all parties. The new section 45A(5) further provides that the Syariah Court is deemed to be sitting at an appointed place when it conducts a hearing of a matter or proceeding through electronic means, whether any president of the Syariah Court, the registrar of the Syariah Court or a deputy registrar of the Syariah Court is situated in Singapore or outside Singapore. A similar provision is made in relation to an Appeal Board in the new section 45A(6).

Clause 7 makes amendments to section 46A that are consequential to the introduction of the new definitions of "child of the parties" and "dependent child of the parties" in section 2 via clause 2.

Clauses 8, 9 and 10 amend sections 46B(3), 47(3) and (4) and 48(2), respectively, to remove the requirement for payment of prescribed fees before the Syariah Court must cause a divorce to be registered under each of those provisions.

Clause 11 amends section 50 to improve the process of proceedings conducted by hakim, whose role is to guide the Muslim married couple towards reconciliation or, if that is not possible, other amicable resolutions to the marital dispute, including having the divorce pronounced by the hakim. Under the existing section 50, the hakim may pronounce a divorce if the hakim has the husband's authority to do so. In a small percentage of cases, the husband may withhold his authority to allow the hakim to pronounce a divorce even where reconciliation is not possible. In these cases, the existing section 50 requires the Syariah Court to appoint a second set of hakim to resolve the impasse and make its

recommendation directly to the Syariah Court. The second set of hakam derives its authority from the Syariah Court and can thus proceed even if the husband withholds his authority. However, this will require parties to go through the hakam process again, with the second set of hakam.

The amendments to section 50 improve the hakam process by allowing the Syariah Court to authorise the first set of hakam to pronounce a divorce, should the husband refuse to authorise the hakam to pronounce a divorce in the first instance. The first set of hakam must still endeavour to obtain the authority from the husband to pronounce a divorce. However, if such authority is not obtained, the hakam may nevertheless pronounce a divorce if the hakam are of the joint opinion that the parties should be divorced, as the Syariah Court has conferred authority on the hakam to pronounce a divorce at the time of appointing the hakam. This removes the need for a second set of hakam to undertake another round of proceedings where reconciliation is not possible, merely because the husband refused to authorise the first set of hakam to pronounce a divorce.

Clause 12 makes amendments to section 52(8) that are consequential to the introduction of the new definition of “child of the parties” in section 2 via clause 2.

Clause 13 makes amendments to section 53 that are related to amendments to the Women’s Charter 1961 on the enforcement of custody orders.

Clause 14 amends section 54A to provide that the section also applies to proceedings before an Appeal Board. In addition, the definition of “audio or visual recording” in section 54A(7) is deleted and substituted with a new definition that includes any recording of a temporary nature, including (but not limited to) any such recording for the purposes of contemporaneous or instantaneous publication or transmission. In relation to proceedings before the Syariah Court or an Appeal Board, “audio or visual recording” is defined to include an audio or visual recording of a person participating in, viewing or listening to proceedings before the Syariah Court or Appeal Board, as well as a person viewing or listening to an audio or visual recording of such proceedings.

Clause 15 amends section 54B to provide that the section also applies to proceedings before an Appeal Board, and that proceedings before the Syariah Court or an Appeal Board include proceedings before the Syariah Court or Appeal Board, or any part of the proceedings before the Syariah Court or Appeal Board, conducted through any electronic means of communication.

Clause 16 repeals and re-enacts section 56B to extend the protection from personal liability in the discharge of functions under the Act. The protection is extended to a president of the Syariah Court, the Registrar of Muslim Marriages, Deputy Registrars of Muslim Marriages, a Kadi or a Naib Kadi, an authorised person, and a person who conducts any counselling, family support programme or activity, or programme for children under Part 3. For the purposes of the re-enacted section 56B, “authorised person” is defined to mean a member or an

officer of the Syariah Court or an Appeal Board, the registrar or a deputy registrar of the Syariah Court, a mediator appointed by the Syariah Court, or any other person expressly authorised by the Syariah Court or an Appeal Board to conduct any proceedings before the Syariah Court or Appeal Board, or any mediation or other alternative dispute resolution process related to those proceedings.

Clause 17 amends section 86 to substitute the references to the term “jawatankuasa daerah” with references to the term “jawatankuasa masjid”. This amendment is consequential to the deletion and substitution of the term “jawatankuasa daerah” with the term “jawatankuasa masjid” in section 2 via clause 2.

Clause 18 amends section 87(9) to clarify that the Majlis may prescribe fees for the performance of its functions relating to religious schools via rules made under that section.

Clause 19 amends section 88A to provide that in issuing a halal certificate, the Majlis may impose any condition or limitation that the Majlis thinks fit, which may be different for different halal certificates that relate to different products, services or activities. The Majlis may also vary, remove or add to any such condition or limitation at any time. In addition, the Majlis may, in issuing a halal certificate, require an applicant to undergo either or both of 2 services performed by or under the supervision of the Majlis. The first is a service to verify that food provided or to be provided to Muslims complies with halal requirements or other requirements in relation to halal certification. The second is a service for the cleansing of food utensils and crockery in accordance with Islamic rituals. The Majlis may provide either or both of these services to the applicant upon the payment of the prescribed fees.

Clause 20 amends section 96 to provide that 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 the date of the solemnisation. This requirement may be waived by the Registrar of Muslim Marriages if there are good reasons for doing so.

Clause 21 amends section 100 by deleting and substituting subsection (3), which currently requires any president of the Syariah Court to cause the copies of the certificates of divorce issued by that Court to be bound in a Register of Divorces. The new subsection (3) requires the registrar of the Syariah Court to maintain a Register of Divorces containing the copies of the certificates of divorce issued by that Court. The registrar of the Syariah Court may keep the Register of Divorces in the form that he or she may determine.

Clause 22 amends section 102(2) and (5) by removing the requirement for a prescribed form to be used for an application for registration of a revocation of

divorce effected in Singapore, and an application for a decree or an order for a divorce effected in Singapore.

Clause 23 inserts a new section 109A to facilitate marriages, divorces and revocation of divorces using electronic means of communication. Subsection (1) of the new section 109A provides that a person required to be present or appear to perform any act, or to witness or attest the doing of anything under specific provisions in the Act, is taken to be present or to appear for that purpose if the conditions in that subsection are satisfied. The conditions are firstly that the person, with the permission of the Registrar of Muslim Marriages, attends and performs that act, or witnesses or attests the doing of that thing, through the use of a live video link or live television link that is created using any electronic means of communication approved by the Registrar of Muslim Marriages. Secondly, the person must comply with such conditions that the Registrar of Muslim Marriages considers necessary or expedient to impose relating to the use of the electronic means of communication. Thirdly, the Registrar of Muslim Marriages must be satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located. For marriages and revocations of divorces, there are additional conditions that both parties to the marriage, the witnesses (if required) and the wali (if any) of the woman to be wedded must all be in Singapore and that both parties to the revocation of divorce and the witnesses (if required) must all be in Singapore, respectively.

Subsection (2) of the new section 109A provides that despite section 49(6), the requirement for an entry in the Register of Divorces to be signed by the persons mentioned in section 49(6) is deemed to be satisfied if the persons each sign the document required by the registrar of the Syariah Court, when communicating with one another using any electronic means of communication in accordance with the new section 109A. Subsection (3) of the new section 109A provides that despite section 102(1)(b) requiring any registration, or solemnisation and registration, of a marriage to be conducted at any place mentioned in section 102(1)(b), that registration, or solemnisation and registration, may be conducted using any electronic means of communication in accordance with the new section 109A.

Subsection (4) of the new section 109A provides that despite section 102(5) requiring the presence of any person to perform any act, such person is taken to be present for that purpose if the conditions in that subsection are satisfied. The conditions are firstly that the person, with the permission of the senior president of the Syariah Court, attends and performs that act through the use of a live video link or live television link that is created using any electronic means of communication approved by the senior president of the Syariah Court. Secondly, the person must comply with such conditions that the senior president of the Syariah Court considers necessary or expedient to impose relating to the use of the electronic means of communication. Thirdly, the senior president of the Syariah Court must

be satisfied that there are sufficient administrative and technical facilities and arrangements made at the place where the person is located.

Subsection (5) of the new section 109A provides that despite section 103(3), the requirement for an entry in the Register of Marriages, certificate of marriage, Register of Revocation of Divorces or certificate of revocation of divorce (as the case may be) to be signed by the persons mentioned in that provision is deemed to be satisfied if the persons each sign the document required by the Registrar of Muslim Marriages, when communicating with one another using any electronic means of communication in accordance with the new section 109A.

Clause 23 also inserts a new section 109B to facilitate the making of statutory declarations using electronic means of communication. The new section 109B provides that despite section 11(1)(b) of the Oaths and Declarations Act 2000, a statutory declaration required for any purpose in section 43(b) or the new section 109A may be made by a person appearing before another person, who is empowered under any written law to take or receive the statutory declaration, using electronic means of communication. The approving authority for the electronic means of communication that may be used depends on the purpose of the statutory declaration. In the case of a statutory declaration required for any purpose in section 43(b) or 109A(2) or (4), the approving authority is the senior president of the Syariah Court. In the case of a statutory declaration required for any purpose in section 109A(1), (3) or (5), the approving authority is the Registrar of Muslim Marriages.

Clause 24 amends section 139(2) to substitute the word “President” with the word “Mufti”. With this amendment, the court must presume that a doctrine, a ceremony or an act is contrary to Muslim law in any prosecution for an offence under section 139, where evidence is given by the Mufti that the doctrine, ceremony or act is contrary to Muslim law.

Clause 25 repeals and re-enacts sections 143 and 144. The re-enacted section 143 provides that the Registrar of Muslim Marriages must maintain a Register of Marriages and Register of Revocation of Divorces containing such records and information as the Registrar of Muslim Marriages may determine on marriages solemnised or registered, or divorces revoked, under the Act. The Register of Marriages and Register of Revocation of Divorces may be kept in such form as the Registrar of Muslim Marriages may determine. A copy or an extract from any record, information, certificate of marriage or certificate of revocation of divorce contained in the Register of Marriages or Register of Revocation of Divorces that is certified by the Registrar of Muslim Marriages to be a true copy or extract is admissible in evidence as of equal validity with the original document containing the information or the original record.

The re-enacted section 144 provides that any person may, upon payment of the prescribed fee, apply for a copy of an entry in the Register of Divorces. The registrar of the Syariah Court may issue a certified true copy of the entry if he or

she thinks fit. The Register of Divorces, and any copy of an entry in it certified by the registrar of the Syariah Court to be a true copy, is prima facie evidence in any court or tribunal of the dates and acts contained or set out in that Register or copy.

Clause 26 amends section 145(2) to expand the power to make rules under section 145. The expanded power includes the following:

- (a) prescribing the manner in which, and the time within which, any application is to be made to the Syariah Court or an Appeal Board under the Act or any other written law;
- (b) prescribing the form and manner of an application for, and the issuance of, an inheritance certificate under section 115;
- (c) providing for the provision of copies of, or extracts from, any record or information contained in the Register of Marriages or Register of Revocation of Divorces (including a copy or an extract that is certified by the Registrar to be a true copy or extract);
- (d) prescribing anything that is required or permitted under the Act to be prescribed.

Clause 27 validates the collection of fees by the Majlis for the following services, which are part of its statutory functions, before the date of commencement of the clause:

- (a) a service to verify that food provided or to be provided to Muslims complies with halal requirements or other requirements in relation to halal certification;
- (b) a service for the cleansing of food utensils and crockery in accordance with Islamic rituals;
- (c) the administration of applications to be a recognised Islamic teacher or recognised Quranic teacher.

With the validation, these fees are, and are taken always to have been, validly collected. Accordingly, no legal proceedings may be instituted on or after 10 January 2022 in any court on account of or in respect of any such collection. Subsequently, fees for these services will be prescribed in rules made under section 87(9) (in the case of fees to be charged by the Majlis for the performance of its functions relating to religious schools) or section 88C(1) (in the case of fees to be charged by the Majlis for the provision of services relating to halal certificates).

Clause 28 repeals section 3 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 Act (as amended by the Bill) will provide for marriages and revocation of divorces using electronic means of communication. Clause 43(2) of the Women's Charter (Amendment) Bill 2021

contains a clause to repeal the COVID-19 (Temporary Measures for Solemnization and Registration of Marriages) Act 2020.

Clause 29 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.
