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Community Disputes Resolution Bill

Bill No. 4/2015.

Read the first time on 19 January 2015.

COMMUNITY DISPUTES RESOLUTION ACT 2015

(No. of 2015)

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A BILL

intituled

An Act to facilitate the resolution of community disputes by providing for a statutory tort for community disputes and for the establishment of Community Disputes Resolution Tribunals to deal with such disputes, and for matters connected therewith, and to make consequential and related amendments to certain other written laws.

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

PART 1
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Community Disputes Resolution Act
5 2015 and shall come into operation on such date as the Minister may,
by notification in the *Gazette*, appoint.

General interpretation

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

“claim” includes a counterclaim;

10 “Community Disputes Resolution Tribunal” or “tribunal” means
a State Court designated under section 14 as a Community
Disputes Resolution Tribunal;

15 “Community Mediation Centre” means a Community Mediation
Centre established under section 3 of the Community
Mediation Centres Act (Cap. 49A);

“Registrar” means the registrar of the State Courts appointed
under section 12 of the State Courts Act (Cap. 321) and
includes a deputy registrar appointed under that section;

“Registry” means the Registry of the State Courts.

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PART 2

TORT OF INTERFERENCE WITH ENJOYMENT OR USE
OF PLACE OF RESIDENCE

Interpretation of this Part

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

25 “court” means a court of competent jurisdiction and includes a
Community Disputes Resolution Tribunal;

“exclusion order” means an order made under section 9(2)
excluding a contravening party (within the meaning of that
section) from his or her place of residence;

“place of residence” means a house, a flat, an apartment or other dwelling place used for the purpose of residence;

“special direction” means a direction made by a court under section 6(2) against a contravening party (within the meaning of that section);

“vicinity”, in relation to a place of residence, includes any common corridor, common space or common property, any road, or any building or other property, in the surrounding area of the place of residence.

Tort of interference with enjoyment or use of place of residence

4.—(1) An individual who resides in a place of residence (called in this Part the respondent) must not, by his or her act or omission, directly or indirectly, and whether intentionally, recklessly or negligently, cause unreasonable interference with his or her neighbour’s enjoyment or use of the place of residence that the neighbour resides in.

(2) An act or omission by a respondent which may cause interference with his or her neighbour’s enjoyment or use of the neighbour’s place of residence may include (but is not limited to) any of the following:

- (a) causing excessive noise, smell, smoke, light or vibration;
- (b) littering at or in the vicinity of the neighbour’s place of residence;
- (c) obstructing the neighbour’s place of residence, by placing any thing or object, or by any other manner, at or in the vicinity of the neighbour’s place of residence;
- (d) interfering with the neighbour or the neighbour’s movable property, at or in the vicinity of the neighbour’s place of residence;
- (e) surveillance of the neighbour or of the neighbour’s place of residence, where the surveillance is done at or in the vicinity of that place of residence;
- (f) trespassing on the neighbour’s place of residence;

(g) allowing an animal owned by or under the care or control of the respondent to trespass on the neighbour's place of residence, to cause excessive noise or smell, or to defecate or urinate at or in the vicinity of the neighbour's place of residence.

(3) A neighbour of a respondent may bring civil proceedings in a court against the respondent for the respondent's wrongful act or omission in subsection (1).

(4) For the purposes of this section, a neighbour of a respondent is an individual who lawfully resides in a place of residence —

(a) that is in the same building as the respondent's place of residence; or

(b) that is within 100 metres of the respondent's place of residence,

but does not include an individual who occupies the same place of residence as the respondent.

Illustration

X and Y live in the same apartment but in different rooms. X and Y occupy the same place of residence.

(5) For the purposes of subsection (4)(b), that distance is to be measured from any part of the boundary of one place of residence to any part of the boundary of the other place of residence.

Orders of court

5.—(1) A court may make one or more of the following orders if the court is satisfied on a balance of probabilities that a claim under section 4 by a respondent's neighbour has been made out against the respondent, and is satisfied that it is just and equitable to do so:

(a) an order for damages;

(b) an order granting an injunction;

(c) an order for specific performance;

(d) an order that the respondent provides an apology to the neighbour, in such form or manner as the court thinks fit;

(e) any ancillary order as may be necessary to give effect to any of the court's orders.

(2) In deciding whether it is just and equitable for any order to be made under subsection (1), the court is to consider all the following matters:

5

(a) the impact of the order, if made, on —

(i) the respondent;

(ii) any individual who, at the time of the making of the order, resides in the same place of residence as the respondent; and

10

(iii) any other person who can reasonably be expected to be affected by the order;

(b) the ordinary instances of daily living that can be expected to be tolerated by reasonable persons living in Singapore;

(c) any other matters as the court deems fit.

15

Special direction on breach of court order, etc.

6.—(1) Where a respondent (called in this Part the contravening party) fails to comply with an order of court made under section 5 (called in this section the disobeyed order), the party in whose favour the disobeyed order was made may apply to a relevant court for a direction that the contravening party must comply with the disobeyed order.

20

(2) Any court (at first instance or on appeal) may make a direction that a contravening party comply with a disobeyed order within a specified time if the court is satisfied on a balance of probabilities that the contravening party has, without reasonable excuse, failed to comply with the disobeyed order.

25

(3) Where a court in subsection (2) makes a special direction, the court may also order any person as the court may specify, to enter into a bond to ensure that the contravening party complies with that direction.

30

(4) The court may, in making an order under subsection (3) for a person to enter into a bond, impose such conditions on or give such

directions to that person, as part of the bond, as the court thinks fit, for the purpose of ensuring that the contravening party complies with the special direction.

5 (5) No order under subsection (3) may be made without giving the person referred to in that subsection an opportunity to attend and be heard.

10 (6) Despite subsection (5), an order under subsection (3) may be made if the person referred to in subsection (3), having been given an opportunity to attend and be heard, has failed to do so or cannot be found within a reasonable time.

(7) A person who fails to comply with an order to enter into a bond under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

15 (8) Where a person is convicted of an offence under subsection (7) for failure to comply with an order to enter into a bond, the failure to comply with that order is not punishable as a contempt of court.

(9) A person is not to be convicted of an offence under subsection (7) in respect of any non-compliance which has been punished as a contempt of court.

20 (10) In this section, “relevant court”, in relation to an application for a special direction, means the court of first instance which heard the claim under section 4 (whether or not the claim was allowed), or its equivalent.

Breach of special direction an offence

25 7.—(1) A contravening party who, without reasonable excuse, fails to comply with a special direction shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; and

30 (b) in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of the day during which the offence continues after conviction, but not exceeding \$10,000 in total.

(2) It shall not be a defence for a person charged with an offence under subsection (1) that the court which made an order under section 5 or the court which made a special direction should not have, for whatever reason, made that order or direction.

(3) Where a person is convicted of an offence under subsection (1) for failure to comply with a special direction, the failure to comply with the special direction as well as the failure to comply with the order of court made under section 5 which is the subject of that special direction is not punishable as a contempt of court. 5

(4) A person shall not be convicted of an offence under subsection (1) in respect of any non-compliance which has been punished as a contempt of court. 10

Section 6 not to apply to certain court orders

8. Section 6 does not apply to an order of court made under section 5 which requires a contravening party to pay damages. 15

Exclusion order

9.—(1) Where a contravening party fails to comply with a special direction, the party in whose favour the special direction was made may apply to a court (called in this section a second court) for an order that the contravening party be excluded from his or her place of residence. 20

(2) A second court may make an exclusion order if the court is satisfied on a balance of probabilities that the contravening party has, without reasonable excuse, failed to comply with a special direction, and is satisfied that it is just and equitable to do so. 25

(3) A second court may make an exclusion order on such terms and conditions as the court thinks fit.

(4) In deciding whether it is just and equitable for an exclusion order to be made, the court is to consider all the following matters:

- (a) the impact of the order, if made, on — 30
 - (i) the contravening party;

(ii) any individual who, at the time of the making of the order, resides in the same place of residence as the contravening party; and

(iii) any other person who can reasonably be expected to be affected by the order;

5

(b) any other matters as the court deems fit.

(5) In this section, “second court”, in relation to an application for an exclusion order, means the court which heard at first instance the application under section 6(1) for a special direction, or its equivalent.

10 **Breach of exclusion order an offence**

10.—(1) A contravening party who, without reasonable excuse, fails to comply with an exclusion order shall be guilty of an offence and shall be liable on conviction —

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(a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of the day during which the offence continues after conviction, but not exceeding \$10,000 in total.

20

(2) Where a person is convicted of an offence under subsection (1) for failure to comply with an exclusion order, the failure to comply with the exclusion order is not punishable as a contempt of court.

25

(3) A person shall not be convicted of an offence under subsection (1) in respect of any non-compliance which has been punished as a contempt of court.

Termination of tenancy, etc.

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11.—(1) Where a person who is ordered to enter into a bond under section 6(3) is a landlord of the place of residence a contravening party resides in (called in this section the specified residence), the landlord is entitled to terminate, in accordance with subsection (2), any tenancy relating to that specified residence to which the landlord is party.

(2) A tenancy may be terminated by giving written notice which must specify a date of re-possession that is at least 14 days after the date on which the notice is given.

(3) A landlord is entitled to terminate a tenancy in accordance with this section despite anything in any other law or in any agreement, and section 18 of the Conveyancing and Law of Property Act (Cap. 61) does not apply to or in relation to any tenancy which is lawfully terminated under this section.

(4) A landlord is not liable in respect of any termination of a tenancy in accordance with this section.

(5) Where a landlord terminates a tenancy for a specified residence in accordance with this section and there is a sub-tenancy derived out of that tenancy in relation to that specified residence —

- (a) the tenant is not liable in respect of any termination of that sub-tenancy, if the tenant is not a contravening party; and
- (b) section 18 of the Conveyancing and Law of Property Act does not apply in relation to that sub-tenancy.

Illustrations

(a) X lets out a place of residence to Y. Y, or another person occupying that place of residence, is a contravening party. If a court orders X to enter into a bond under section 6(3), X is entitled to terminate the entire tenancy with Y, even if the contravening party only occupies a part of that place of residence.

(b) X lets out one part of a place of residence to Y under a tenancy with Y. X lets out another part of the place of residence to Z under a separate tenancy with Z. Y, or a person occupying the part of the place of residence which is the subject of Y’s tenancy with X, is a contravening party. If a court orders X to enter into a bond under section 6(3), X is entitled to terminate the tenancy which X has entered into with Y but may not terminate the tenancy which X has entered into with Z.

Community order

12. Where a court convicts any person for an offence under section 6, 7 or 10, the court has the power to make a community order under Part XVII of the Criminal Procedure Code (Cap. 68) despite any provision to the contrary in section 337(1)(h) of that Code.

Exemption

13. The Minister may exempt from the application of section 6(3) any person or class of persons as the Minister may, by order published in the *Gazette*, prescribe.

5

PART 3

COMMUNITY DISPUTES RESOLUTION TRIBUNALS

Division 1 — Establishment and jurisdiction of tribunal

Community Disputes Resolution Tribunals

14.—(1) For the purposes of this Act, the Presiding Judge of the State Courts may —

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(a) designate one or more State Courts as Community Disputes Resolution Tribunals; and

(b) designate so many District Judges, as may be necessary, as tribunal judges for the Community Disputes Resolution Tribunals.

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(2) A tribunal is to be presided over by a tribunal judge designated under subsection (1)(b).

Jurisdiction, powers and duties of Registrar

15. The Registrar is, subject to this Act and any other written law, to have such jurisdiction, powers and duties as may be prescribed by the Rules of Court.

20

Application of State Courts Act

16. Subject to this Act, the provisions of the State Courts Act (Cap. 321) are to apply to the Community Disputes Resolution Tribunals.

25

Jurisdiction of tribunal

17.—(1) Subject to the provisions of this Act, a tribunal has jurisdiction only to hear and determine any claim under section 4.

(2) Where an action brought by a plaintiff includes a claim or matter which is not within the tribunal's jurisdiction under subsection (1) (called in this section the non-relevant claim), the tribunal must dismiss the action in its entirety if —

- (a) the plaintiff does not first withdraw, discontinue or abandon the non-relevant claim; or 5
- (b) an application under section 20 is not first made to transfer the whole proceedings or the proceedings on the non-relevant claim.

(3) Except where this Act expressly provides otherwise, the tribunal's jurisdiction does not extend to a claim under section 4 — 10

- (a) which exceeds the prescribed limit; or
- (b) which is brought more than 2 years after the cause of action has accrued.

(4) Where the amount of a claim exceeds the prescribed limit, the plaintiff may abandon the excess amount and thereafter — 15

- (a) the amount of the claim is deemed to be within the prescribed limit;
- (b) the tribunal has jurisdiction to hear and determine the claim;
- (c) the plaintiff may not obtain in the claim any remedy or relief, in respect of the action, the value of which exceeds the prescribed limit; and 20
- (d) an order of the tribunal in relation to the claim will be in full discharge of all demands in respect of the claim.

(5) The prescribed limit, in relation to the jurisdiction of the tribunal, is \$20,000 or such other amount as the Minister may, after consultation with the Chief Justice, substitute by order published in the *Gazette*. 25

Exclusion of other jurisdictions

18.—(1) Where an action on a claim (called in this section the first-mentioned proceedings) is commenced in a tribunal, no other civil proceedings relating to that claim (called in this section the 30

second-mentioned proceedings) may be commenced in any other court except —

(a) where the second-mentioned proceedings were commenced in that other court before the first-mentioned proceedings were commenced in the tribunal; or

(b) where the claim before the tribunal is withdrawn, discontinued or abandoned, or is dismissed for lack of jurisdiction.

(2) No action for a claim may be brought before a tribunal if civil proceedings relating to that claim are pending in or have been heard and determined by any other court.

No division of claims

19. A claim may not be split or divided and pursued in separate proceedings before a tribunal for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of a tribunal.

Transfer of claim, etc., from tribunal to court

20.—(1) Where any claim, counterclaim or set-off and counterclaim in proceedings before a tribunal is or includes a claim or matter not within the tribunal's jurisdiction (called in this section the non-relevant claim), any party in the proceedings may apply to an appropriate court for an order that the whole proceedings, or the proceedings on the non-relevant claim, be transferred to that court.

(2) On an application referred to in subsection (1), the court may order —

(a) that the whole proceedings be transferred to that court; or

(b) that the proceedings relating only to the non-relevant claim be transferred to that court, and that the proceedings relating to the claim in which a tribunal has jurisdiction (called in this section the relevant claim) be heard before the tribunal.

(3) Where an order is made under subsection (2)(b) and the tribunal gives judgment to the plaintiff on the relevant claim, execution on the judgment is, unless the court (to which the non-relevant claim is

transferred) at any time otherwise orders, to be stayed until the proceedings transferred to that court have been concluded.

Costs in transferred cases

21. Where the whole or any part of the proceedings are transferred pursuant to an order of court under section 20(2)(a) or (b) —

5

(a) the costs of the proceedings which are transferred (both before and after the transfer) are, subject to any order made by the court which ordered the transfer, to be in the discretion of the court to which those proceedings are transferred; and

(b) the court to which those proceedings are transferred may make orders with respect to the costs and as to the scales on which the costs of the several parts of those proceedings are to be paid.

10

Division 2 — Proceedings before tribunal

Sittings in camera, etc.

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22.—(1) Subject to subsection (2), all matters and proceedings in a tribunal are to be heard in camera.

(2) A tribunal has the power to hear any matter or part of a matter in an open and public manner to which the public generally may have access, if the tribunal is satisfied that it is expedient in the interests of justice, or for other sufficient reason to do so.

20

(3) A tribunal may, in any matter or proceeding or any part of it which is tried or held or to be tried or held before the tribunal, if satisfied that it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason to do so, order that any of the following, which is contained in any tribunal document or intended to be produced before the tribunal, be removed or be sufficiently redacted:

25

(a) the name, address or photograph of any witness in that matter or proceeding;

30

(b) any evidence or any other thing likely to lead to the identification of any such witness by any person other than a party to that matter or proceeding.

5 (4) A tribunal may make an order under subsection (3) on its own motion or on the application of any party to the matter or proceeding before the tribunal.

(5) A tribunal may, on its own motion or on the application of any party to a matter or proceeding before the tribunal, at any time order that no person is to —

10 (a) publish the name, address or photograph of any witness in the matter or proceeding or any part of it tried or held or to be tried or held before the tribunal, or any evidence or any other thing likely to lead to the identification of any such witness; or

15 (b) do any other act which is likely to lead to the identification of any such witness.

(6) Any person who acts in contravention of any order under subsection (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

20 **Evidence**

23.—(1) A tribunal is not to be bound by the rules of evidence but may inform itself on any matter in such manner as the tribunal thinks fit.

25 (2) Evidence tendered to a tribunal by or on behalf of a party to any proceedings need not be given on oath but the tribunal may, at any stage of the proceedings, require that such evidence or any part of it be given on oath whether orally or in writing.

(3) For the purposes of subsection (2), a tribunal judge is empowered to administer an oath.

30 (4) A tribunal may require any written evidence given in the proceedings before the tribunal to be verified by statutory declaration.

Enforcement of orders, etc.

24. A decision, a direction or an order of a tribunal or the Registrar may be enforced in any manner which may be prescribed under this Act or by any other written law.

No costs allowed except as provided in Act

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25. Except as otherwise provided in this Act, costs, other than disbursements, must not be granted to or awarded against any party to any proceedings before a tribunal or the Registrar.

*Division 3 — Appeals from tribunal***Appeals from tribunal**

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26.—(1) Subject to subsection (2), an appeal lies to the High Court only against a decision, a direction or an order of a tribunal —

- (a) on any ground involving a question of law;
- (b) on the ground that the claim was outside the jurisdiction of the tribunal;
- (c) made under section 6(2) or (3) or 9(2); or
- (d) which is a final order.

15

(2) An appeal lies to the High Court under this section only if leave to appeal is given by a tribunal.

(3) An order of the tribunal giving or refusing leave under subsection (2) is final and is not subject to any appeal.

20

Appeal not to operate as stay of execution

27.—(1) An appeal from a tribunal does not operate as a stay of execution of a decision, a direction or an order (as the case may be) of the tribunal appealed from, unless the tribunal or the High Court otherwise orders.

25

(2) An order of a stay of execution may be subject to such conditions as to costs, payment into a tribunal or the High Court, the giving of security or otherwise, as the tribunal or the High Court thinks fit.

Judgment or order of High Court to be final

28. A judgment or an order of the High Court, on an appeal under section 26, is final and is not subject to any appeal.

Division 4 — Miscellaneous

5 **Right of audience**

29.—(1) Subject to this section, a party to proceedings before the Registrar or a tribunal must present his or her own case.

(2) The following persons may present a case on behalf of a party to proceedings before the Registrar or a tribunal:

10 (a) where the party is a minor and is, in the opinion of the Registrar or tribunal, unable to present his or her own case, the minor's parent or guardian, or any other person as may be approved by the Registrar or tribunal (as the case may be);

15 (b) where the party is not resident in Singapore and is unable to remain in Singapore until the hearing of the case, any other person who is duly authorised in writing by that party and who is approved by the Registrar or tribunal (as the case may be);

20 (c) where the party who, in the opinion of the Registrar or tribunal (as the case may be), is unable to present his or her own case by reason of old age, illiteracy or infirmity of mind or body, any other person who is duly authorised in writing by that party or who is approved by the Registrar or tribunal (as the case may be).

25 (3) Despite subsection (2), no party to any proceedings before the Registrar or a tribunal may be represented by an advocate and solicitor unless —

(a) all the parties to the proceedings otherwise agree to that party being represented by an advocate and solicitor; and

30 (b) the Registrar or tribunal (as the case may be) grants leave.

(4) Except as provided in subsection (2), no party to any proceedings before the Registrar or a tribunal may be represented by an agent, whether paid or otherwise.

(5) Despite subsection (2), the Registrar or tribunal must, before approving any person referred to in that subsection to represent a party, satisfy himself or itself that the person has sufficient knowledge of the case and sufficient authority to bind that party whom the person represents.

5

Referral of cases to Community Mediation Centre, etc.

30.—(1) Despite any written law, the Registrar or a tribunal judge may refer a claim commenced in a tribunal to a Community Mediation Centre or to any other person for mediation, with or without the consent of the parties to the claim.

10

(2) The Registrar or tribunal judge may, in making a referral under subsection (1), order all or any of the parties to the claim to attend personally before a mediator of a Community Mediation Centre or any other person at a time and place to be specified in the Registrar’s or tribunal judge’s order.

15

(3) Any person who fails to comply with the Registrar’s or tribunal judge’s order made under subsection (2) commits contempt of court and action may be taken against that person under section 8 of the State Courts Act (Cap. 321).

20

Person not precluded from filing claim in court

31. Subject to section 18, nothing in this Act is to be construed as precluding a person from commencing proceedings for a claim that is within the jurisdiction of a tribunal in any other court if that person elects to institute proceedings in that other court to hear and determine that claim.

25

PART 4
GENERAL

Rules of Court

5 **32.**—(1) The Rules Committee appointed under section 80(3) of the Supreme Court of Judicature Act (Cap. 322) may make Rules of Court to —

- 10 (a) regulate and prescribe the procedure and practice to be followed in the tribunals and the Registry, including any procedure and practice to be followed in any proceedings or hearings (including mediation), and any matters incidental to or relating to any such procedure and practice;
- (b) regulate the enforcement of decisions, directions and orders of the tribunals and the Registrar; and
- 15 (c) prescribe such matters as are required by this Act to be prescribed or as are necessary for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Rules of Court may provide for the following:

- 20 (a) what part of the business which may be transacted and the jurisdiction and powers which may be exercised by a tribunal judge may be exercised by the Registrar;
- (b) the form and content of documents to be used for the purposes under this Act, the service of documents and the giving of notices;
- 25 (c) the manner and time within which any act, application, claim or appeal under this Act is to be done or made;
- (d) the functions, powers and duties of the tribunals, the Registrar and other officers including but not limited to —
- (i) the service of documents and giving of notices;
- 30 (ii) the enlargement and abridgement of time for the doing of any act or taking any proceedings; and
- (iii) the conduct of proceedings;

- (e) the manner in and the time within which an application or a claim may be heard, and the circumstances and manner in which claims may be heard together;
- (f) the withdrawal and amendment of claims;
- (g) the summoning of witnesses and the payment of witnesses from public funds or otherwise; 5
- (h) the means by which particular facts may be proved, and the mode in which evidence of such facts may be given, in any proceedings or on any application in connection with or at any stage of any proceedings; 10
- (i) the commission of offences by, and the punishment of, persons who refuse to give evidence or obey a summons to witness;
- (j) the transfer of proceedings from a tribunal to a court;
- (k) to regulate the joinder of parties and to prescribe in what cases persons absent, but having an interest in the claim, are to be bound by any order made in that claim, and the circumstances in which orders may be made for the representation of absent persons by one or more parties to a cause or matter; 15
- (l) the circumstances in which a decision, a direction or an order of the Registrar or a tribunal may be set aside and the procedure for setting aside such decisions, directions or orders; 20
- (m) the circumstances in which a decision, a direction or an order of the Registrar may be appealed against and the procedure for appeals from the Registrar to a tribunal and from a tribunal to the High Court; 25
- (n) the scales of allowances, costs and fees to be taken or paid to any party or witness in any proceedings in a tribunal or before the Registrar, the fees to be charged in respect of anything done or any service rendered under or by virtue of this Act, the circumstances in which costs may be awarded in any proceedings in a tribunal or before the Registrar and for 30

regulating any matters relating to the costs of such proceedings.

(3) The Rules of Court may, instead of providing for any matter, refer to any provision made or to be made for that matter by practice directions issued for the time being by the Registrar of the Supreme Court or the Registrar of the State Courts, as the case may be.

(4) All Rules of Court made under this section are to be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

10 **33.**—(1) The Minister may make regulations for carrying out the purposes and provisions of this Act and for any matter which is required under this Act to be prescribed.

(2) The powers conferred by this section do not extend to any matter for which Rules of Court may be made under section 32.

15 **Consequential and related amendments to Community Mediation Centres Act**

34. The Community Mediation Centres Act (Cap. 49A, 1998 Ed.) is amended —

20 (a) by inserting, immediately after the words “section 15” in section 9(3), the words “and the Community Disputes Resolution Act 2015”; and

(b) by inserting, immediately after the words “sections 9(3) and 15” in section 11(1), the words “and the Community Disputes Resolution Act 2015”.

25 **Related amendment to Small Claims Tribunals Act**

35. Section 5(1) of the Small Claims Tribunals Act (Cap. 308, 1998 Ed.) is amended by inserting, immediately after the words “any property” in paragraph (b), the words “other than a claim under section 4 of the Community Disputes Resolution Act 2015”.

EXPLANATORY STATEMENT

This Bill seeks to facilitate the resolution of community disputes by providing for a statutory tort for community disputes and for the establishment of Community Disputes Resolution Tribunals to deal with such disputes.

The Bill also makes consequential and related amendments to certain other written laws.

PART 1

PRELIMINARY

Part 1 (comprising clauses 1 and 2) relates to preliminary matters.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

PART 2

TORT OF INTERFERENCE WITH ENJOYMENT OR USE OF PLACE OF RESIDENCE

Part 2 (comprising clauses 3 to 13) creates a tort of interference with the enjoyment or use of a neighbour's place of residence (the tort) and provides for various types of orders and directions that may be made where a court has found in favour of a plaintiff for a claim in that tort and the respondent breaches the court order made in favour of the plaintiff.

Clause 3 defines certain terms used in the Part.

Clause 4 sets out the elements of the tort, and gives examples in which an act or omission may cause interference with an individual's enjoyment or use of the individual's place of residence.

Clause 5 provides for the orders that a court may make if the court is satisfied on a balance of probabilities that a claim under clause 4 has been made out against the respondent, and is satisfied that it is just and equitable to make such orders.

Clause 6 provides that where a respondent fails to comply with a court order made under clause 5 (the disobeyed order), the party in whose favour the disobeyed order was made may apply to a relevant court (as defined in clause 6(10)) for a special direction that the respondent (the contravening party) complies with the disobeyed order within a specified time. A court (whether it is a court of first instance or an appellate court) may make a special direction if it is satisfied on a balance of probabilities that the contravening party has, without reasonable excuse, failed to comply with the disobeyed order.

Clause 6 further empowers a court which makes a special direction to order any person (except the contravening party or a person exempted under clause 13) to enter into a bond to ensure that the contravening party complies with the special direction. A failure to comply with an order to enter into a bond is an offence. If a person is convicted of an offence for failure to comply with an order to enter into a bond, the person cannot be punished for contempt of court for non-compliance with that order, and vice versa.

Clause 7 provides that a failure, without reasonable excuse, to comply with a special direction made under clause 6 is an offence. If a person is convicted of an offence under clause 7, the person cannot be punished for contempt of court for non-compliance with the special direction or the court order made under clause 5, and vice versa.

Clause 8 provides that clause 6 does not apply to an order of court, made under clause 5, which requires a contravening party to pay damages.

Clause 9 provides that where a contravening party fails to comply with a special direction, the party in whose favour the special direction was made may apply to a second court (as defined in clause 9(5)) for an order to exclude the contravening party from his or her place of residence (an exclusion order). The court may make an exclusion order if the court is satisfied on a balance of probabilities that the contravening party has, without reasonable excuse, failed to comply with the special direction, and is satisfied that it is just and equitable to do so.

Clause 10 provides that a contravening party who, without reasonable excuse, fails to comply with an exclusion order is guilty of an offence. If a person is convicted of an offence under the clause, the person cannot be punished for contempt of court for non-compliance with the exclusion order, and vice versa.

Clause 11 allows the landlord, who has been ordered to enter into a bond under clause 6(3), to terminate a tenancy, in accordance with clause 11, relating to the place of residence that a contravening party occupies. The landlord is entitled to terminate the tenancy in accordance with clause 11 despite anything in any other law or in any agreement, and section 18 of the Conveyancing and Law of Property Act (Cap. 61) (relating to relief against forfeiture of leases) will not apply in relation to the tenancy terminated under the clause. A landlord will not be liable in respect of any termination of a tenancy in accordance with the clause.

Clause 11 further provides that where there is a sub-tenancy derived out of the tenancy in relation to the same specified residence, the tenant will not be liable in respect of any termination of that sub-tenancy, provided the tenant is not a contravening party. Section 18 of the Conveyancing and Law of Property Act will also not apply to that tenant (whether or not that tenant is a contravening party) in relation to that sub-tenancy.

Clause 12 empowers the court upon a conviction under clause 6, 7 or 10 to make a community order despite that such order cannot usually be made for offences punishable with a fine only (such as an offence in clause 6).

Clause 13 empowers the Minister to exempt from the application of clause 6(3) any person or class of persons as the Minister may, by order published in the *Gazette*, prescribe.

PART 3

COMMUNITY DISPUTES RESOLUTION TRIBUNALS

Part 3 (comprising clauses 14 to 31) relates to the establishment, jurisdiction and other matters of the Community Disputes Resolution Tribunals.

Division 1 (comprising clauses 14 to 21) relates to the establishment and jurisdiction of the Community Disputes Resolution Tribunals.

Clause 14 provides that the Presiding Judge of the State Courts may designate one or more State Courts as Community Disputes Resolution Tribunals and so many District Judges, as may be necessary, as tribunal judges for the Community Disputes Resolution Tribunals. A Community Disputes Resolution Tribunal (tribunal) is to be presided over by a tribunal judge.

Clause 15 provides that, subject to the Bill and any other written law, the registrar and deputy registrars of the State Courts (the Registrar) are to have such jurisdiction, powers and duties as may be prescribed by the Rules of Court.

Clause 16 provides that, subject to the Bill, the provisions of the State Courts Act (Cap. 321) are to apply to the Community Disputes Resolution Tribunals.

Clause 17 provides for the jurisdiction of a tribunal. In particular a tribunal has jurisdiction only to hear and determine a claim in the tort under clause 4. However, the tribunal's jurisdiction does not extend to such a claim where the claim exceeds the prescribed limit or where the claim is brought more than 2 years after the cause of action has accrued. The prescribed limit is \$20,000 or such other amount as the Minister may, after consultation with the Chief Justice, substitute by order published in the *Gazette*.

Clause 17 also provides that where an action includes a claim that is not within a tribunal's jurisdiction (the non-relevant claim), the tribunal must dismiss the action if the plaintiff does not first withdraw, discontinue or abandon the non-relevant claim or an application under clause 20 is not first made to transfer the whole proceedings or the proceedings on the non-relevant claim. Further, if the amount of the claim exceeds the prescribed limit, the plaintiff may abandon the excess amount in order to bring the claim within the jurisdiction of the tribunal to hear and determine.

Clause 18 provides that once an action on a claim is commenced in a tribunal, an action relating to the same claim may not be commenced in any other court except in the circumstances provided in the clause.

Clause 19 provides that a claim cannot be split or divided and pursued in separate proceedings before a tribunal for the sole purpose of bringing the sum in each of those proceedings within the jurisdiction of a tribunal.

Clause 20 empowers an appropriate court, on a party's application, to transfer to that court the whole proceedings or the proceedings for the non-relevant claim.

Clause 21 provides that where proceedings (or part of it) are transferred pursuant to an order of court under clause 20 from a tribunal to another court, the costs of the transferred proceedings (both before and after the transfer) are, subject to any order made by the court which ordered the transfer, to be in the discretion of the court to which those proceedings are transferred.

Division 2 (comprising clauses 22 to 25) relates to proceedings before a tribunal.

Clause 22 provides that all matters and proceedings in a tribunal will be heard in camera. A tribunal also has the power to make certain orders to prevent the identification of witnesses in proceedings before the tribunal. A contravention of such an order is an offence.

Clause 23 provides that a tribunal is not to be bound by the rules of evidence and that evidence need be given on oath only where a tribunal so requires.

Clause 24 provides that a decision, a direction or an order of a tribunal or the Registrar may be enforced in any manner prescribed under the Bill or by any other written law.

Clause 25 provides that no costs, other than disbursements, may be granted or awarded against a party to any proceedings before a tribunal or the Registrar, except as provided in the Bill.

Division 3 (comprising clauses 26, 27 and 28) relates to appeals from a tribunal.

Clause 26 enables a party to appeal to the High Court only against certain orders of a tribunal and only with the leave of a tribunal. An order of a tribunal giving or refusing leave to appeal is final and is not subject to any appeal.

Clause 27 provides that an appeal from a tribunal does not operate as a stay of execution of a decision, a direction or an order of the tribunal appealed from, unless the tribunal or the High Court otherwise orders.

Clause 28 provides that a judgment or an order of the High Court, on an appeal under clause 26, is final and is not subject to any appeal.

Division 4 (comprising clauses 29, 30 and 31) contains miscellaneous provisions.

Clause 29 provides that a party to proceedings before the Registrar or a tribunal must present his or her own case, and may not be represented by an advocate and solicitor or an agent. There are exceptions to this. Clause 29(2) provides, for instance, that certain persons may present a case on behalf of a party with the approval of the Registrar or tribunal, as the case may be. Clause 29(3) allows a party to be represented by an advocate and solicitor if all the parties to the proceedings agree to that party being represented as such, and the Registrar or tribunal, as the case may be, grants leave.

Clause 30 empowers the Registrar or a tribunal judge to refer a claim commenced in a tribunal to the Community Mediation Centre or any other person for mediation, with or without the consent of the parties to the claim.

Clause 31 provides that nothing in the Bill precludes a person from commencing proceedings for a claim that is within the tribunal's jurisdiction in any other court. The clause is subject to clause 18.

PART 4

GENERAL

Part 4 (comprising clauses 32 to 35) contains general provisions and consequential and related amendments to other Acts.

Clause 32 empowers the Rules Committee appointed under the Supreme Court of Judicature Act (Cap. 322) to make Rules of Court for regulating and prescribing the practice and procedure to be followed in the Community Disputes Resolution Tribunals and the Registry of the State Courts.

Clause 33 empowers the Minister to make regulations for the carrying out of the purposes and provisions of the Bill and for any matter which is required under the Bill to be prescribed. The Minister's regulation-making powers do not extend to any matter for which Rules of Court may be made under clause 32.

Clauses 34 and 35 make consequential and related amendments to the Community Mediation Centres Act (Cap. 49A) and the Small Claims Tribunals Act (Cap. 308), respectively. In particular, clause 35 amends the Small Claims Tribunals Act to preclude the Small Claims Tribunals from hearing a claim under clause 4.

EXPENDITURE OF PUBLIC MONEY

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