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A NOTE FROM SECOND MINISTER FOR LAW, MR EDWIN TONG SC, ON ADVANCING SINGAPORE'S STATUS AS A DISPUTE RESOLUTION AND IP LEGAL HUB

The Ministry of Law (MinLaw) got off to a good start at the first Parliament Sitting of the year.

The two Bills passed on 12 January 2022 in Parliament – the Legal Profession (Amendment) Bill and the Intellectual Property (Amendment) Bill – will go some way in ensuring that **Singapore continues to grow as a trusted, conducive and efficient dispute resolution and Intellectual Property (“IP”) hub**, making it attractive for both local and foreign firms to invest in Singapore and do business here.

Legal Profession (Amendment) Bill

We understand the importance of keeping up with developments in other jurisdictions and updating our legislative framework. This helps to ensure that Singapore remains competitive as an international dispute resolution hub.

Through this Bill, we are making amendments in these key areas:

A) To introduce a framework for conditional fee agreements (CFAs)

- i. This builds on our earlier reforms in litigation funding and enhances our offerings as a dispute resolution hub.
- ii. We have studied the growing trend for alternative funding methods internationally, and observed the needs and also understood the feedback from the legal fraternity, businesses as well as individuals.

One area of reform we have introduced is in third-party funding (TPF), where a party unconnected to the dispute funds the claim, usually in exchange for a share of the damages awarded, if the claim succeeds. TPF was first introduced in international arbitration proceedings in 2017, and extended to domestic arbitration, certain proceedings in the Singapore International Commercial Court (SICC), and related court and mediation proceedings in 2021.

iii. With the passing of the Bill, CFAs can soon be entered into between lawyers and their clients in prescribed proceedings, which will be aligned with those prescribed under the TPF framework. This offers an additional funding option for litigants to pursue meritorious claims, thereby enhancing access to justice. The reforms also level the playing field for Singapore lawyers in certain practice areas vis-à-vis foreign lawyers, whom our lawyers compete with on the international front.

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iv. The CFA framework also permits the charging of uplift fees – fees payable to the lawyer in specified circumstances, that are higher than what would otherwise be payable if there were no CFAs. Lawyers and their clients should agree on the specific circumstances in which an uplift fee should be paid.

v. We are taking an incremental and measured approach, and are concurrently assessing the feasibility of extending the CFA framework to other categories of proceedings. The rationale for any extension of the framework would primarily be aimed at uplifting the legal profession to further enhance and pursue access to justice for more litigants, who may otherwise not have such access. MinLaw will closely consult all relevant stakeholders and welcomes the profession’s feedback.



B) To refine the involvement of foreign lawyers in SICC proceedings

i. Another set of amendments under the Bill refines the scope of representation of a foreign lawyer in certain proceedings in the SICC, particularly international corporate debt restructuring and insolvency cases.

ii. Insolvency proceedings in such cases can be complex, and proceedings will often comprise significant foreign elements, raising transnational issues with a mix of foreign and local law.

iii. These refinements will strengthen Singapore as a preferred forum:

a. They seek to facilitate collaboration between local and foreign lawyers for the efficient and fair resolution of such cases before the SICC.

b. This will in turn benefit litigants and other stakeholders, and support the growth of international cases which are heard in Singapore.

c. Without these changes, parties may choose to file their proceedings in other jurisdictions which have open regimes.

iv. Where such insolvency cases are heard in the SICC, the right to submit on Singapore law aspects in such proceedings is reserved for Singapore lawyers.

v. We anticipate the amendments will draw more work to Singapore, and consequently benefit, Singapore lawyers.

Intellectual Property (Amendment) Bill

Today, economic growth is increasingly driven by innovation which generates intangible assets (IA) and IP. According to findings by Ocean Tomo, 90% of the value of S&P 500 companies lies in their IA. As businesses generate more IA and IP, it becomes increasingly important for the IP registration operations of the Intellectual Property Office of Singapore (IPOS) to be efficient and business-friendly. This in turn allows businesses to protect their IP more easily in Singapore.

We have moved to make amendments to our IP statutes in the following ways:

- A) To improve business-friendliness, we will enhance the IP registration processes. For example:
- i. Removing the requirement to pay a fee for the publication of the translation of a non-English patent application,
 - ii. Allowing partial acceptance of national trade mark applications to help applicants save time and costs, and
 - iii. Introducing an opposition mechanism for correction of errors in IP applications or registrations, where the correction may affect the interests of third parties.

B) We will improve the operational efficiency of IPOS, including:

- i. Shifting technical and operational provisions from primary to subsidiary legislation to allow IPOS to respond more nimbly to changing business needs,

“ We will enhance the IP registration processes ... improve the operational efficiency of IPOS ... improve legislative and procedural clarity, and smoothen IPOS’ administration of the IP registration processes, to allow businesses to protect their IP more easily in Singapore ... ”

- ii. Reducing the turnaround and processing time for patent applications by inviting applicants to make minor amendments within a shorter time period, and
- iii. Streamlining the patent examination review process so that patent examiners only need to focus on the latest proposed amendments under some circumstances.



C) We will also improve legislative and procedural clarity, and smoothen IPOS' administration of the IP registration processes. For example:

- i. Clarifying IPOS' ability to avail patent documents for public access, and
- ii. Empowering the Registrar to issue practice directions on the manner of filing of patent applications, and also amending the rules under the Patents Act to require sequence listings to be filed with patent applications.

These amendments span across different IP-related statutes, and are part of the continued and ongoing efforts of MinLaw and IPOS to review and improve the processes for obtaining IP protection in Singapore.

Continued Partnership with Legal Fraternity

Taken together, the two Bills passed in Parliament underscore our firm commitment to the rule of law and keeping up to date with international developments. These efforts will ensure that Singapore remains attractive to businesses, while at the same time maintain a level playing field for our local legal fraternity.

My MinLaw colleagues and I will continue to review our policies, legislation and processes to grow our legal sector, as well as stay ahead of competition. We seek your continued support and partnership towards these common goals.

Wishing all of you a happy and meaningful year ahead!

Regards,
Edwin Tong

