

25 Mar 2003

## **Torts (Choice of Law) Bill**

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**Bill No. 00/2003**

*Read the first time on* 2003.

### **THE TORTS (CHOICE OF LAW) ACT 2003**

**(No. of 2003)**

#### **ARRANGEMENT OF SECTIONS**

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A BILL

*i n t i t u l e d*

An Act to make provision for choice of law rules in tort and for matters connected therewith; and to make related amendments to the Subordinate Courts Act (Cap.321 of the 1999 Revised Edition) and the Supreme Court of Judicature Act (Cap.322 of the 1999 Revised Edition).

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 may be cited as the Torts (Choice of Law) Act 2003 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 **Interpretation**

2. In this Act, unless the context otherwise requires, “rules” means the choice of law rules set out in this Act which apply for choosing the law to be used for determining issues relating to tort.

### 10 **Application [Source: section 9, UK Private International Law (Miscellaneous Provisions) Act 1995 (UK PIL Act)]**

3.—(1) The rules in this Act shall apply for choosing the law (referred to in this Act as the applicable law) to be used for determining issues relating to tort.

15 (2) The characterisation for the purposes of private international law of issues arising in a claim as issues relating to tort is a matter for the courts of Singapore.

20 (3) For the avoidance of doubt, the rules in this Act shall apply in relation to infringements of or any other tort affecting intellectual property rights occurring in Singapore or in any other country but do not apply in relation to questions of the validity of such rights.

(4) The rules in this Act shall not apply in relation to issues arising in any claim excluded from the operation of this Act by section 7 (exclusion of defamation claims).

25 (5) Subject to section 8, the applicable law shall be used for determining the issues arising in a claim, including in particular the question whether an actionable tort has occurred.

(6) The applicable law to be used for determining the issues arising in a claim shall exclude any choice of law rules forming part of the law of the country or countries concerned.

30 (7) For the avoidance of doubt (and without prejudice to the operation of section 8), this Act shall apply in relation to events occurring in Singapore as it applies in relation to events occurring in any other country.

**Abolition of certain common law rules [Source: section 10, UK PIL Act]**

4. The rules of the common law, in so far as they —

(a) require actionability under both the law of Singapore and the law of another country for the purpose of determining whether a tort is actionable; or

(b) allow (as an exception from the rules falling within paragraph (a)) for the law of a single country to be applied for the purpose of determining the issues, or any of the issues, arising in the case in question,

are hereby abolished so far as they apply to any claim in tort which is not excluded from the operation of this Act by section 7 (exclusion of defamation claims).

**Choice of applicable law: the general rule [Source: section 11, UK PIL Act]**

5.—(1) The general rule is that the applicable law is the law of the country in which the events constituting the tort in question occur.

(2) Where elements of those events occur in different countries, the applicable law under the general rule is to be taken as being —

(a) for a cause of action in respect of personal injury caused to an individual or death resulting from personal injury, the law of the country where the individual was when he sustained the injury;

(b) for a cause of action in respect of damage to property, the law of the country where the property was when it was damaged;

(c) for a cause of action in respect of infringement of intellectual property rights, the law of the country where the infringement occurred; and

(d) in any other case, the law of the country in which the most significant element or elements of those events occurred.

(3) In this section, “personal injury” includes disease or any impairment of physical or mental condition.

**Choice of applicable law: displacement of general rule [Source: section 12, UK PIL Act]**

6.—(1) If it appears, in all the circumstances, from a comparison of —

- (a) the significance of all the factors which connect a tort with the country whose law would be the applicable law under the general rule; and
- (b) the significance of any factor connecting the tort with another country or its system of law,

that it is substantially more appropriate for the applicable law for determining issues relating to the tort which arise in the case, or any of those issues, to be the law of the other country, the general rule is displaced and the applicable law for determining those issues or that issue (as the case may be) is the law of that other country.

(2) For the purposes of this section, the factors that may be taken into account as connecting a tort with a country or its system of law shall include, in particular, factors relating to —

- (a) the parties;
- (b) any of the events which constitute the tort in question; or
- (c) any of the circumstances or consequences of those events.

**Exclusion of defamation claims [Source: section 13, UK PIL Act]**

7.—(1) Nothing in this Act shall affect the selection of the applicable law or laws to be used for determining issues relating to tort which arise, or any of those issues, in any defamation claim.

(2) In this section, “defamation claim” —

- (a) means any claim under the law of Singapore for libel or slander or under the law of any other country corresponding to or otherwise in the nature of such a claim; but
- (b) does not include a claim under the law of Singapore for slander of title, slander of goods or other malicious falsehood or under the law of any other country corresponding to or otherwise in the nature of such a claim.

**Transitional provision and savings [Source: section 14, UK PIL Act]**

8.—(1) Nothing in this Act shall apply to any act or omission giving rise to a claim which occurs before the commencement of this Act.

5 (2) Nothing in this Act shall affect any rule of law (including rules of private international law) except those abolished by section 4.

(3) Without prejudice to the generality of subsection (2), nothing in this Act shall —

10 (a) authorise the application of the law of a country outside Singapore as the applicable law for determining issues arising in any claim in so far as to do so would —

(i) conflict with principles of public policy; or

(ii) give effect to such a penal, revenue or other public law as would not otherwise be enforceable under the law of Singapore; or

15 (b) affect any rules of evidence, pleading or practice or authorise questions of procedure in any proceedings to be determined otherwise than in accordance with the law of Singapore.

20 (4) This Act shall have effect without prejudice to the operation of any rule of law which either has effect notwithstanding the rules of private international law applicable in the particular circumstances or modifies the rules of private international law that would otherwise be so applicable.

**Application to Government [Source: section 15, UK PIL Act]**

25 9.—(1) This Act shall apply in relation to any claim by or against the Government as it applies in relation to any claim to which the Government is not a party.

(2) Without prejudice to the generality of section 8(2), nothing in this section shall affect any rule of law as to whether proceedings of any description may be brought against the Government.

30 **Related amendment to Subordinate Courts Act [Source: section 30, UK Civil Jurisdiction and Judgments Act 1982]**

10. The Subordinate Courts Act (Cap. 321) is amended by inserting, immediately after section 20, the following section:

**“Proceedings in Singapore for torts to immovable property and intellectual property**

**20A.** The civil jurisdiction of a District Court to entertain —

(a) proceedings for trespass to, or any other tort affecting, immovable property; and

(b) proceedings for infringement of intellectual property rights,

shall extend to cases in which the property or rights in question is situated or are protected in a country outside Singapore provided that in the case of paragraph (a) the proceedings are not principally concerned with a question of the title to, or the right to possession of, that property.”.

*[Note: With modification for repeal of Mozambique rule re torts in IPR].*

**Related amendment to Supreme Court of Judicature Act [Source: section 30, UK Civil Jurisdiction and Judgments Act 1982]**

**11.** The Supreme Court of Judicature Act (Cap. 322) is amended by inserting, immediately after section 17A, the following section:

**“Proceedings in Singapore for torts to immovable property and intellectual property**

**17B.** The civil jurisdiction of the High Court to entertain —

(a) proceedings for trespass to, or any other tort affecting, immovable property; and

(b) proceedings for infringement of intellectual property rights,

shall extend to cases in which the property or rights in question is situated or are protected in a country outside Singapore provided that in the case of paragraph (a) the proceedings are not principally concerned with a question of the title to, or the right to possession of, that property.”.

*[Note: With modification for repeal of Mozambique rule re torts in IPR].*

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EXPLANATORY STATEMENT

EXPENDITURE OF PUBLIC MONEY

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

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