



THE LAW SOCIETY  
OF SINGAPORE

The Law Society of Singapore  
28 Maxwell Road #01-03  
Maxwell Chambers Suites S(069120)  
t: +65 6538 2500 f: +65 6533 5700  
www.lawsociety.org.sg

**Sender's Fax:** 6533 5700

**Sender's DID:** 6530 0205

**Sender's Email:** [represent@lawsoc.org.sg](mailto:represent@lawsoc.org.sg)

**Our Ref:** LS/10/REP/CON/MLPC/2021/DLT/yj

14 September 2021

Ministry of Culture, Community, and Youth  
AMLA Feedback  
Old Hill Street Police Station  
140 Hill Street, #01-01A,  
Singapore 179369

**BY EMAIL**

[amlafeedback@mccy.gov.sg](mailto:amlafeedback@mccy.gov.sg)

Dear Sirs,

**Public Consultation for Administration of Muslim Law (Amendment) Bill**

1. We refer to the Public Consultation for Administration of Muslim Law (Amendment) Bill that was referred to the Law Society on 16 August 2021.
2. The Muslim Law Practice Committee has considered the draft Bill and sets out its feedback in the prescribed template.
3. If you have any questions or require further clarification, please contact the Representation Department via email at [represent@lawsoc.org.sg](mailto:represent@lawsoc.org.sg).
4. Thank you.

Yours faithfully,

Gregory Vijayendran, SC  
President, The Law Society of Singapore

**Council Members 2021**

Gregory Vijayendran, SC (President)  
Lisa Sam Hui Min (Vice President)  
Chan Tai-Hui Jason, SC (Vice President)  
Tan Beng Hwee Paul (Treasurer)

M Rajaram  
Chan Pengee Adrian  
Manimaran Arumugam TAMIL  
Koh Choon Guan Daniel  
Chia Boon Teck  
Tito Shane Isaac  
Ng Lip Chih  
Chia Soo Michael  
Nicholas Narayanan  
Sunil Sudheesan  
Tan May Lian Felicia  
Simran Kaur Toor  
Low Ying Li, Christine  
Foo Guo Zheng Benjamin  
Yeoh Jun Wei Derric  
Marshall Lim Yu Hui  
Abhinav Ratan Mohan

**Secretariat**

**Chief Executive Officer**  
Delphine Loo Tan

**Compliance**  
**Representation**  
Rejini Raman

**Legal Policy and Research**  
Delphine Loo Tan

**Regulatory**  
K Gopalan  
Anamika Bagchi

**Continuing Professional Development**  
Jean Wong

**Finance**  
Pearlyn Quek

**Legal Productivity and Innovation**  
Stefanie Lim

**Membership and External Relations**  
Shawn Toh  
Goh Wan Cheng

**Publications**  
Sharmaine Lau

PUBLIC CONSULTATION ON DRAFT ADMINISTRATION OF MUSLIM LAW (AMENDMENT) BILL 2021  
 PRESCRIBED TEMPLATE FOR SUBMISSION OF COMMENTS

S/N	Legislative Change	Section of the AMLA	Corresponding Clause in Draft AMLA (Amendment) Bill 2021	Proposed Change to Draft AMLA (Amendment) Bill [Please indicate your proposed change to the wording of the Bill. Leave blank if you are not proposing any change]	Rationale for Proposed Change to AMLA (Amendment) Bill / General Comments
	<i>Please select from the drop-down list the relevant legislative change. You may refer to the worksheet "Proposed Amendments".</i>	<i>Please indicate the relevant section of the AMLA. You may refer to the draft Bill.  E.g. Section 56 B</i>	<i>Please indicate the corresponding clause in the draft Bill.</i>	<i>Please provide your proposed change in this column (D), and the rationale for your proposed change in the next column (E).  If you have no proposed change but would like to provide feedback, leave this column blank, and provide your feedback in the next column (E).</i>	<i>Please provide your rationale for the proposed change, or your feedback here.</i>
1	To allow SYC and the Registry of Muslim Marriages (ROMM) to conduct proceedings via remote communications	Section 35B	New section 35B 3. The principal Act is amended by inserting, immediately after section 35A, the following section: *Oral hearing not needed generally		There could be greater clarity on the applicability of proposed section 35B. As Section 35 generally deals with jurisdiction of court, the inclusion of 35B on mode of hearing seems to not fully fit into this section. The words in 35B(1) where "the Court or Appeal Board may decide on any matter <b>in its jurisdiction</b> ....." Is the 'jurisdiction' referring to locality (use of 'in its') or scope (the matters or persons who come under its ambit)?
2	To allow SYC and the Registry of Muslim Marriages (ROMM) to conduct proceedings via remote communications	Section 35B(2)	(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.		Would this change create a difficulty in a situation where the Plaintiff has already given oral evidence but the Defendant subsequently fails or refuses to participate in further proceedings?  Although section 35B (1) does provide for a scenario that parties' consent must cover 'any part of a trial of an action', it is unclear what the treatment of the evidence will be on the portion <b>already heard prior to the absence of the other party</b> .
3	To allow SYC and the Registry of Muslim Marriages (ROMM) to conduct proceedings via remote communications	Section 35B(2)	(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.		There were differing views within the Committee .  One member's view is that the Court should have the final discretion whether there should be oral evidence or otherwise to avoid a situation where the other party objects to oral evidence due to frivolous reason OR any other reason to hinder the expediency of the proceedings). The Court could be given the final say in such situations, rather than the requirement that all parties consent.  There are however other views which support the proposed amendment that the option of conducting the trial without oral hearing is left to the discretion of the party's counsels, and not the Court.  One area of concern lies with Appeal hearings. Even if written submissions had been filed, and the Appeal Board decides that an oral hearing is not needed and the appeal is dismissed, a party or parties may feel aggrieved as they did not see the "process" of the appeal/hearing and may not understand why the appeal was dismissed.  While we are cognisant that in other forums, including other courts in Singapore, there is a practice of parties' attendance not being required at the hearing, the convention at the MUIS Appeal Board has been for parties to appear. Has been to have parties attend the hearing, where they observe the proceedings in full, but almost inevitably judgement will be reserved and the verdict be delivered not in open Court (by way of collection of the decision at MUIS) upon notice being given. The proposed amendments will thus effectively change the manner of appeal hearings and delivery of verdict which lawyers and parties have been accustomed to.  Therefore, members would like to seek clarification on the intended scope of this section and if it is decided that there are only written submissions, with no oral hearing, the impact this would have on the perception of parties on the adage that it is not just for justice to be done but to be seen to be done.
4	To allow SYC and the Registry of Muslim Marriages (ROMM) to conduct proceedings via remote communications	New Section 46AA	46AA.—(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. (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 — (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. (3) For the purposes of subsection (2), the Court or an 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 an Appeal Board (as the case may be) to conduct proceedings fairly. (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 an Appeal Board (as the case may be) to ensure that the hearing is conducted fairly to all parties. (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)."		The amendments actually reflect what is already happening in practice - the use of video hearings. 46AA(2)(a) Court / Appeal Board <b>must not conduct any part of hearing through live audio link</b> , without an accompanying live video link where oral evidence is given during that part of the hearing <b>unless all the parties consent</b> . The member supposes that this covers instances where the video malfunctions part way through the hearing. The proposal seems rather harsh, albeit the safeguard that all parties consent. While it does seem right that the hearing should not continue if there is only audio and no video, there can be provision for parties to use alternative technology or platforms (e.g. switch to handphone devices where video is available). It should also be made clear whether this proposed law is only for the final hearings/ appeal hearings or do they include pre-trial conferences etc. This is because the Family Justice Courts still allows for teleconferences at Case Conference / PTC, without video.

5	To improve the hakam process, by allowing SYC to authorise the first set of hakam to effect a divorce under certain circumstances, without the need to appoint a second set of hakam	Section 50	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 "shall 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"; ... (e) by deleting the words "their arbitration" in subsection (5) and substituting the words "the proceedings"; ...		We note that all usage of 'arbitration/arbitrators' to be deleted and henceforth, only 'hakam' to be used. To avoid confusion, such a revision calls for an updated definition of hakam in the amendments, and a clear listing of the scope of the hakam's role. The implications and nuances of substituting 'decree' with 'pronounce' may not be understood by many.
6	To improve the hakam process, by allowing SYC to authorise the first set of hakam to effect a divorce under certain circumstances, without the need to appoint a second set of hakam	Section 50	Section 50 of the principal Act is amended — (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 the hakam and appoint other hakam in their place." ... (g) by deleting subsection (7) and substituting the following subsections: "(6A) 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. (7) 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 it thinks fit. (8) 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 it thinks fit. (9) 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). (10) 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."		The issue of the husband delegating his "power" to the hakam by signing a form should be addressed. This procedure (signing the form) makes it seem like a hakam order is one that can only be done with the husband's consent, but the Court have on many occasions ordered for hakam without seeking the consent of the husband. This results in some kind of a lacuna because if the husband refuses to sign the form after the judge makes the order, there cannot be a hakam session and it will proceed on taklik or fasakh. There appears to be divergent views by scholars on whether the husband must expressly agree to delegate his "powers" to the hakam.  The proposed s50(6A) appears to say that hakam may pronounce a divorce in the ABSENCE of full authority from their respective principals if (a) ... and (b) .... So even if husband refuses to sign the form, hakam may pronounce a divorce. Although there is a short reference to this in the brief consultation paper issued with the Draft amendment Bill, we would like to seek clarification if this is the intention of the amendment.  It would be useful to clarify through this proposed amendment on this issue of the scope of the hakam i.e. whether they can pronounce talak without this delegation of "powers". The deliberations of the Appeal Board in Azman bin Abdul Rani v Rahmah bte Ramli (1998) 1 SSAR 93; [1998] SGSAB 1 seems to suggest that this delegation is critical.  <b>There is a need for clarity on the process in situation that has led to some impasse due to the husband / one party's refusal to make the payment.</b> Can the Court proceed with the hearing and include the payment in the order itself or if the wife pays for the husband, and include in the order that the payment be deducted from the husband's share to be reimbursed. It cannot be a situation where there is an impasse that leads to an inordinate delay due to the husband not being able to make the payment.
7	To improve the hakam process, by allowing SYC to authorise the first set of hakam to effect a divorce under certain circumstances, without the need to appoint a second set of hakam	Section 50(7)	<u>Section 50(8)</u>  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 it thinks fit.	(8) If the hakam appointed under subsection (4) or (7) ... "	Hakam are appointed under subsections (1), (4) and (7), but NOT under subsection (8).  It would be useful to have greater clarity on ' the Court may make such order or give such direction as it thinks fit ' (as per our feedback above).
8	To improve the hakam process, by allowing SYC to authorise the first set of hakam to effect a divorce under certain circumstances, without the need to appoint a second set of hakam	Section 50(7)	<u>Section 50(10)</u>  (10) 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. "	(10) "Where a divorce is pronounced by the hakam under subsections (6), (6A) or (7), ... "	Hakam is able to pronounce divorce under draft Subsection 50(6A), too.
9	To allow SYC and the Registry of Muslim Marriages (ROMM) to conduct proceedings via remote communications	Section 145	Section 145(2)(aa)  (a) by inserting, immediately after paragraph (a), the following paragraph: "(aa) prescribing the manner in which, and the time within which, any application that is to be made to the Syariah Court or an Appeal Board under this Act or any other written law,"	(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 ... "	Delete the word "that" after "any application ... " otherwise the draft amendment leaves the sentence incomplete.
10	To restrict access to the Register of Muslim Marriages only to parties to the marriage, persons applying on behalf of either party, or family members if the Registrar considers there is good reason to do so	Explanatory Statement	Explanatory Statement  (k) to restrict access to the Register of Muslim Marriages, the Register of Divorces and the Register of Revocation of Divorces		Members would like to seek clarification on the reason or any current issues that could have led to the proposed restriction of access to the Register of Muslim Marriages, the Register of Divorces and the Register of Revocation of Divorces.  We note that it is stated in the draft notes of the consultation that "the proposed amendments to AMLA will better safeguard personal data by restricting access to the Register only to parties to the marriage, persons applying on behalf of either party, or family members, if the Registrar considers there is good reason to do so."  It is hoped that over time, there will be a clearer set of indicators on what constitutes 'good reason'. While we understand the constraints under PDPA, there could be legitimate reasons for disclosure.
11		Introduction of SYC's new digital capabilities			We note from the notes of the consultation that "SYC will be implementing a new IT system by April 2022. The new IT system will introduce digital capabilities such as electronic filing, electronic payments, issuing electronic court documents, and a fully electronic case management system that is accessible by parties/lawyers via a front-end user portal."  We would like to propose for the Syariah Court to conduct training sessions (online or hybrid), podcasts, information sheet etc., to prepare the Bar ahead of the implementation of the new IT system.