

# **State Immunity Bill**

## **Table of Contents**

**Bill No: 20/1979**

***Read the first time: 15th May 1979***

**Long Title**

**Enacting Formula**

### **Part I PRELIMINARY**

**1 Short title and commencement**

**2 Interpretation**

### **Part II PROCEEDINGS IN SINGAPORE BY OR AGAINST OTHER STATES**

#### **Immunity from jurisdiction**

**3 General immunity from jurisdiction**

#### **Exceptions from immunity**

**4 Submission to jurisdiction**

**5 Commercial transactions and contracts to be performed in Singapore**

**6 Contracts of employment**

**7 Personal injuries and damage to property**

**8 Ownership, possession and use of property**

**9 Patents, trade-marks, etc.**

**10 Membership of bodies corporate, etc.**

**11 Arbitrations**

**12 Ships used for commercial purposes**

**13 Customs duties, etc.**

**Procedure**

**14 Service of process and judgments in default of appearance**

**15 Other procedural privileges**

**Part III SUPPLEMENTARY PROVISIONS**

**16 States entitled to immunities and privileges**

**17 Restriction and extension of immunities and privileges**

**18 Evidence by certificate**

**19 Excluded matters**

**Explanatory Statement**

**Expenditure of Public Money**

**Table of Derivations**

**State Immunity Bill**

**Bill No. 20/1979**

*Read the first time on 15th May 1979.*

An Act to make provision with respect to proceedings in Singapore by or against other States, and for purposes connected therewith.

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

## PART I

### PRELIMINARY

#### Short title and commencement

1.—(1) This Act may be cited as the State Immunity Act, 1979, and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Subject to subsection (3), Part II does not apply to proceedings in respect of matters that occurred before the commencement of this Act and, in particular —

- (a) subsection (2) of section 4 and subsection (3) of section 15 do not apply to any prior agreement; and
- (b) sections 5, 6 and 11 do not apply to any transaction, contract or arbitration agreement,

entered into before that date.

(3) Section 14 applies to any proceedings instituted after the commencement of this Act.

#### Interpretation

2.—(1) In this Act —

“commercial purposes” means purposes of such transactions or activities as are mentioned in subsection (3) of section 5;

“court” includes any tribunal or body exercising judicial functions;

“ship” includes hovercraft.

(2) In this Act —

- (a) references to an agreement in subsection (2) of section 4 and subsection (3) of section 15 include references to a treaty, convention or other international agreement;
- (b) references to entry of appearance and judgments in default of appearance

include references to any corresponding procedures.

## PART II

### PROCEEDINGS IN SINGAPORE BY OR AGAINST OTHER STATES

#### *Immunity from jurisdiction*

##### **General immunity from jurisdiction**

3.—(1) A State is immune from the jurisdiction of the courts of Singapore except as provided in the following provisions of this Part.

(2) A court shall give effect to the immunity conferred by this section even though the State does not appear in the proceedings in question.

#### *Exceptions from immunity*

##### **Submission to jurisdiction**

4.—(1) A State is not immune as respects proceedings in respect of which it has submitted to the jurisdiction of the courts of Singapore.

(2) A State may submit after the dispute giving rise to the proceedings has arisen or by a prior written agreement; but a provision in any agreement that it is to be governed by the law of Singapore is not to be regarded as a submission.

(3) A State is deemed to have submitted —

- (a) if it has instituted the proceedings; or
- (b) subject to subsections (4) and (5), if it has intervened or taken any step in the proceedings.

(4) Paragraph (b) of subsection (3) does not apply to intervention or any step taken for the purpose only of —

- (a) claiming immunity; or
- (b) asserting an interest in property in circumstances such that the State would have been entitled to immunity if the proceedings had been brought against it.

(5) Paragraph (b) of subsection (3) does not apply to any step taken by the State in

ignorance of facts entitling it to immunity if those facts could not reasonably have been ascertained and immunity is claimed as soon as reasonably practicable.

(6) A submission in respect of any proceedings extends to any appeal but not to any counter-claim unless it arises out of the same legal relationship or facts as the claim.

(7) The head of a State's diplomatic mission in Singapore, or the person for the time being performing his functions, shall be deemed to have authority to submit on behalf of the State in respect of any proceedings; and any person who has entered into a contract on behalf of and with the authority of a State shall be deemed to have authority to submit on its behalf in respect of proceedings arising out of the contract.

### **Commercial transactions and contracts to be performed in Singapore**

5.—(1) A State is not immune as respects proceedings relating to —

- (a) a commercial transaction entered into by the State; or
- (b) an obligation of the State which by virtue of a contract (whether a commercial transaction or not) falls to be performed wholly or partly in Singapore,

but this subsection does not apply to a contract of employment between a State and an individual.

(2) This section does not apply if the parties to the dispute are States or have otherwise agreed in writing; and paragraph (b) of subsection (1) does not apply if the contract (not being a commercial transaction) was made in the territory of the State concerned and the obligation in question is governed by its administrative law.

(3) In this section “commercial transaction” means —

- (a) any contract for the supply of goods or services;
- (b) any loan or other transaction for the provision of finance and any guarantee or indemnity in respect of any such transaction or of any other financial obligation; and
- (c) any other transaction or activity (whether of a commercial, industrial, financial, professional or other similar character) into which a State enters or in which it engages otherwise than in the exercise of sovereign authority.

### **Contracts of employment**

6.—(1) A State is not immune as respects proceedings relating to a contract of