

Kluwer Mediation Blog

In Action – Mediation Developments in Singapore

Keith Wong (SIMI Accredited Mediator) · Monday, May 16th, 2022

Singapore adopts a forward-looking approach to mediation and has taken active measures to promote this form of alternative dispute resolution as a legitimate and effective option for disputing parties. On the international front, the Singapore Convention on Mediation has introduced a framework for the international recognition and enforcement of commercial settlements in writing which have resulted from mediation. While this has been a watershed moment for the international community, few posts have explored Singapore's efforts to support the implementation of mediation domestically. In light of recent legislative and policy developments to support the implementation of mediation within Singapore, this post seeks to provide a high-level overview of four areas, namely (i) the Financial Services and Market Bill, (ii) telecommunications, (iii) community disputes, and (iv) taxation.

(i) Financial Services and Market Bill

According to research from Statista, a market and consumer data service provider, the finance and insurance sector in Singapore amounted to S\$73.75 billion in 2021.^[1] For all retail disputes between financial institutions and consumers in Singapore disputes, the Financial Industry Disputes Resolution Centre (“FIDReC”) has operated the only approved dispute resolution institution since 2005, subject to certain conditions such as a cap of S\$100,000 per claim.^[2] On 14 February 2022, the Financial Services and Market Bill No. 4/2022 (the “FSMB”) was read for the first time. The FSMB has been introduced to enhance the effectiveness and agility of the Monetary Authority of Singapore, the central bank, in addressing financial sector-wide risks.^[3] Of interest is Section 37 of the FSMB, which introduces statutory protection for mediators or an employee of an approved dispute resolution scheme for doing or omitting to do any act done with reasonable care and in good faith in the course of or in connection with any mediation. This goes beyond the existing model of contractual protection conferred upon any adjudicator, employee, officer or representative of FIDReC.^[4] For mediators operating under an approved dispute resolution scheme, the FSMB is welcome, and provides a valuable cloak of protection from liability.

(ii) Telecommunications

In 2016, amendments to the Telecommunications Act 1999 and the Info-Communications Media Development Authority Act 2016 conferred the Infocomm Media Development Authority (“IMDA”) with expanded powers to approve or establish dispute resolution schemes between subscribers and declared telecommunication licensees and designated media licensees.^[5] On 4

March 2022, the IMDA introduced the Alternative Dispute Resolution Scheme (“ADRS”) for disputes under S\$10,000. Although eligible customers may proceed directly to determination if they so choose, the scheme caters for a two-step process. First, parties will proceed for mediation, failing which they will proceed to determination for disputes not resolved after mediation.^[6] As a preliminary step however, eligible customers may in certain cases, be required to provide a 14-calendar notice of intention to resolve the dispute with the service provider before attempting dispute resolution under the ADRS.^[7] Perhaps the most striking feature about this two-step process is that it will take place digitally. Although in-person sessions will be available for less technologically adept parties, it is envisaged that the majority of mediations will be conducted using a chatroom, while the determination process, if any, will be documents-based.^[8] This is reflective of the media and telecommunications environment in which the ADRS operates and also represents a progressive approach to an online mode of mediation which can be equally effective as in-person mediations. Evidence of effective online mediations is supported by a recent poll conducted by Professor James Claxton of Waseda University, which found that 71% of mediators settled no more or fewer cases online than they did in person.^[9] For readers interested in learning more about mediation in an online environment, the link to Professor Claxton’s Kluwer blog post is available [here](#).

(iii) Community Registration

In a densely populated city-state such as Singapore, community disputes between neighbours may happen from time to time. In March 2015, the Community Dispute Resolution Bill was passed. This led to the establishment of Community Disputes Resolution Tribunals (the “CDRT”), which hears disputes between neighbours involving unreasonable interference. Guidelines from the Ministry of Culture, Community and Youth have provided non-exhaustive examples of interference to include excessive noise, smell or smoke, and obstructions at or in the vicinity of the complainant’s place of residence.^[10] At these tribunals, parties are not allowed to have legal representation unless all parties to the proceedings agree, subject to the court’s approval.^[11]

Under the current framework, an aggrieved party is encouraged to discuss matters with his or her neighbour and to consider mediation as a preliminary option before filing a case at the CDRT. Although mediation is strongly encouraged, it is not a mandatory pre-requisite before a claim may be filed with the CDRT.^[12] In a recent speech by the Minister for Culture, Community and Youth on 10 March 2022, three key revisions to the current framework were identified. First, mediation may become a mandatory pre-requisite in appropriate circumstance before disputing neighbours can file a claim with the CDRT.^[13] Second, there may be consequences, such as the drawing of adverse inferences, for parties who fail to attend mediation and insist on pursuing a claim with the CDRT.^[14] Third, mechanisms are being explored for settlement agreement arising out of such community mediations to be enforced as an order of court.^[15] Against the backdrop of COVID-19 and the increased acceptance of working from home as a new normal, the likelihood for potential conflict between neighbours has also increased and as such, these amendments can be regarded as positive steps in the right direction. Ultimately, requiring mediation as a first port of call before proceeding to the CDRT may be a more effective and efficient approach for all parties involved. Even if parties are unable to agree at the mediation session, this can assist in their understanding of the issues and help to identify a range of options and possible solutions which can bear positive

fruit at the CDRT.

(iv) Taxation

In Singapore, income tax obligations are categorised into resident and non-resident tax treatment. A tax resident includes non-Singapore citizens and permanent residents who have (i) stayed or worked in Singapore (i) for at least 183 days in the previous calendar year, (ii) continuously for three consecutive years, or (iii) for a continuous period straddling two calendar years and the total period of stay is at least 183 days.^[16] Tax residents are taxed on all income earned in Singapore which applies on a progressive model, subject to a topline personal income tax rate of 22%.^[17] In contrast, non-tax residents are taxed on all income earned in Singapore and are subject the higher of a flat tax rate of 15%, or the progressive tax rate applied to tax residents.

As a choice forum for international mediators and cross-border matters, the Ministry of Law has taken deliberate efforts to strengthen Singapore's position as an international dispute resolution hub. As part of a review of tax incentives, income earned by non-resident mediators will be tax-exempt till 31 March 2023.^[18] Gross income derived by non-tax resident mediators will be subject to a concessionary withholding tax rate of 10% from 1 April 2023 to 31 December 2027, and the usual withholding tax rate for non-resident professionals will continue to apply at 15%.^[19] For both domestic and international mediators, this is a welcome development for the profession.

(v) Closing Thoughts

This bite-sized post has examined four areas where legislative and policy measures have come into play to support the implementation of mediation within Singapore. Although more changes are likely to come, it is encouraging to see how mediation has been regarded as a priority in Singapore not simply at the international level, but also on the domestic front. This perhaps, is best surmised by a quote often credited to Mahatma Gandhi. "To be the change you wish to see in the world, where better than to start with yourself?"

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