

Dispute Resolution

Keeping the Judicial Wheels Turning: Remote Proceedings in Singapore Courts amid COVID-19

Introduction

As the COVID-19 pandemic continues in Singapore and across the world, multiple sectors have been greatly affected in terms of operations and continuity. The justice system has faced significant disruptions in this regard. With numerous countries imposing lockdowns and movement restrictions, witness travel has been rendered nearly impossible. Within Singapore, concerns over safe distancing mean that physical court proceedings – where judges, witnesses and lawyers may all be congregated in a room – are no longer advisable.

The onset of such challenges has produced novel responses, including the implementation of innovation technology to keep the wheels of justice turning. Singapore, known as a leader in the field of technological adaptation and operational efficiency, particularly with regard to its court system, has put in place a legal and logistical framework to support the move towards remote court proceedings.

The Ministry of Law ("**MinLaw**") has issued a press release announcing that it intends to introduce the COVID-19 (Temporary Measures) Bill ("**Bill**") in Parliament next week. The Bill includes proposed provisions allowing for the conduct of court proceedings using remote communication technology so as to avoid individuals having to physically appear in court. Other aspects of the Bill relate to temporary relief measures for businesses and individuals who are affected by the COVID-19 pandemic, and will be covered in our other legal updates.

The introduction of the Bill comes in the wake of Chief Justice Sundaresh Menon's message on 26 March 2020 announcing that the courts will be implementing measures to allow more matters to be heard by teleconference, video conference, written submissions and email. As lockdown measures continue across the world, we can expect similar measures in other court systems such as the US, UK, Hong Kong and Paris.

Rajah & Tann Singapore is well placed to manage remote court proceedings, having supported the pilot remote hearings before the Singapore courts. Our legal teams have much experience in conducting hearings and arbitration via video link, and the firm is fully equipped with remote communication technology to support the conduct of such proceedings. Parties with matters involving remote proceedings or overseas participation should feel free to approach the firm for advice.

In this Update, we highlight the key aspects of the Bill as it relates to remote proceedings in court.



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Scope of Allowance

Certain existing legislation or rules of law may require an accused person or a witness to be present in court or to give evidence in person. The Bill provides that a court may order that such persons give evidence by means of a live video or live television link that is created using a remote communication technology approved by the Chief Justice. If the person is not giving evidence in the proceedings, a live audio link may also be allowed.

Before the court grants an order allowing remote proceedings, the following conditions must be satisfied:

- (a) An accused person must make an appearance or give evidence from a court or a prison in Singapore;
- (b) A witness (whether in Singapore or elsewhere) must make an appearance or give evidence from a place specified by the court. Additionally, if the witness is a witness of fact, the parties to the proceedings must consent to the use of the remote communication technology; and
- (c) The court must be satisfied that sufficient administrative and technical facilities and arrangements are made at the place where the person is to make an appearance or give evidence, and that it is in the interests of justice to do so.

The above is subject to the court's overarching duty to ensure that the proceedings are conducted fairly to the parties to the proceedings. If the use of remote communication technology in a particular proceeding is inconsistent with this duty, the court may not make any order permitting its use.

False Evidence

The Bill specifies that evidence given by live video or live television link is subject to the sections of the Penal Code dealing with the giving of false evidence. This means that a person who gives false evidence will be liable for the relevant offences whether the evidence is given in person or through such remote communication technology.

The relevant offences include the giving or fabricating of false evidence, the use of evidence known to be false, and the false personation of another in any proceedings.

Unauthorised Recordings

Under section 5(1)(a) of the Administration of Justice (Protection) Act 2016, it is a contempt of court to use a device to make an audio or visual recording in court, or even to bring such a device into court,

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without the leave of the court. The unauthorised use, publishing or transmission of such a recording also constitutes contempt of court.

The Bill clarifies that this prohibition extends to proceedings conducted by remote communication technology. Without leave of the court, recording devices cannot be brought into any place where remote proceedings are being conducted, including where:

- (a) the Judge conducts court proceedings;
- (b) an accused person or a witness makes an appearance or gives evidence; or
- (c) any person participates in, views, or listens to the court proceedings.

Concluding Words

The COVID-19 pandemic and its resultant issues have brought about new solutions in the realm of telecommunications. In the case of the courts, the Bill signals a move towards remote proceedings rather than physical attendance.

During this inceptive period, Rajah & Tann Singapore has been successfully involved in some of the initial hearings via remote communication technology. On this front, the firm is fully equipped with stable connections and functional equipment to prevent any disruptions or interruptions in proceedings. The firm also prioritises client privacy and confidentiality, and has accordingly set up secured lines for the conduct of proceedings.

With Rajah & Tann's wide-ranging experience in this field, clients may feel free to approach the firm if they have any litigation, arbitration or mediation proceedings in Singapore or elsewhere during this period, or if they have to participate in overseas testimonies.

As the situation is constantly changing, the measures in response are also under constant modification. We will continue to update you with the latest developments on this front.

For more articles and updates from our teams across the region on COVID-19 and related legal issues, please visit [Rajah & Tann Asia's COVID-19 Resource Centre](#).

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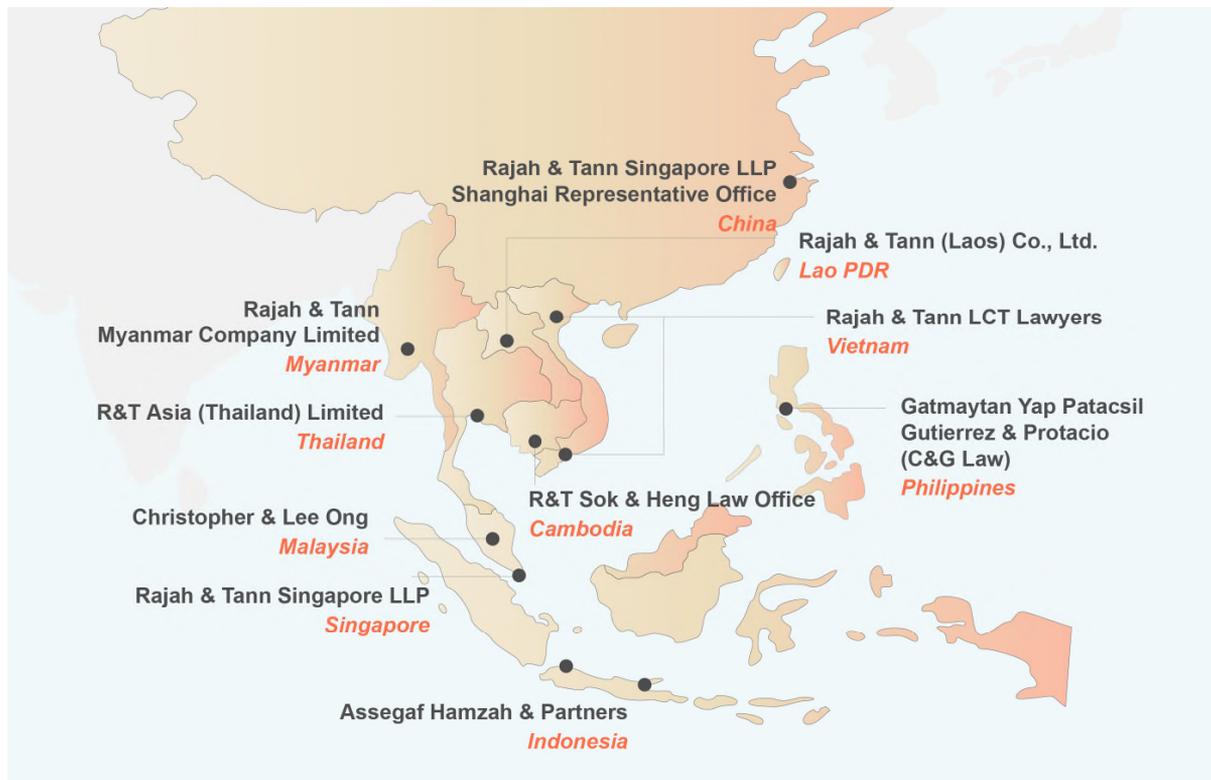
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