新加坡的司法機構及最高法院

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從殖民地法院到國家司法機構

1965年8月9日的獨立並沒有中斷法院的工作。[1] 殖民地時期的最高法院繼續開庭，英國普通法繼續適用，倫敦的樞密院司法委員會仍是終審上訴法院。《1969年最高法院司法法》於1970年1月9日生效，把共和國的司法制度規範化，並把最高法院重新確立為國家機構。[2] 對投資者而言，這種延續性比新名稱更為重要。一份在1964年受新加坡法律管轄的商業合約，在1966年仍按相同原則、大致由相同的法官以相同方式解釋。

與倫敦的決裂是循序漸進的。向樞密院上訴的權利在二十年間逐步受到限制，並自1994年4月8日起全面廢除。同年，上訴法院在一份實務聲明中宣佈，若遵從其本身過往的裁決或樞密院的裁決會在個別案件中造成不公，它不再視自己受這些裁決約束。上訴法院補充，這項權力會審慎行使。[3] 這番措辭的謹慎，本身已是對法律確定性的表態。一個輕易改變先例的法院，或許能在眼前的案件中彰顯公義，卻會動搖數以千計依賴舊規則的當事人的預期。

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立法方面的對應措施是《1993年英國法律適用法》。該法於1993年11月12日廢除了《1909年民事法》第5條；該條規定，每當出現商業法問題時，便全盤引入英國商業法。新法規定，普通法及衡平法只在適用於新加坡及其居民的情況下，才繼續構成新加坡法律的一部分。英國成文法現時只在列於該法附表時才適用。[4] 這項改革結束了令新加坡商業法受制於西敏立法的安排，亦為從業者提供了一份固定的英國成文法清單，使法律更易確定。

2021年以來的法院架構

現行架構始於2021年1月2日，即2019年的憲法及法例修訂生效之日。高等法院分為兩個分庭。原有的高等法院（包括新加坡國際商業法庭及家事分庭）改稱高等法院普通庭，新設的上訴分庭則接手並非保留予上訴法院審理的民事上訴。[5] 這項改革回應了日益增加的上訴案件量，使上訴法院能集中處理刑事上訴、涉及公眾或法律重要性問題的民事上訴類別，以及法律的發展。

普通庭審理所有在新加坡發生並提交予它的刑事罪行，以及申索額超過250,000新加坡元的民事申索。它亦審理來自國家法院及審裁處的上訴，以及其專門案件表上的案件。上訴法院審理所有針對普通庭行使原訟刑事管轄權所作裁決的刑事上訴，以及指明類別的民事上訴。上訴分庭沒有刑事管轄權。[6] 最高法院之下是國家法院及家事司法法院，負責處理大部分刑事、民事及家事案件。

委任、任期及獨立性的保障

司法機構的憲法基礎相當簡短。第93條把新加坡的司法權歸屬最高法院及成文法所規定的下級法院。根據第95(1)條，首席大法官及最高法院其他法官由總統委任，前提是總統按其酌情權同意總理的建議。總理在就委任其他法官提出建議前，必須諮詢首席大法官。[7] 因此，委任權由行政機關掌握，但須受總統制衡，並有司法機構首長參與。

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法官獲委任後，享有普通法傳統的典型保障。第98(1)條規定，法官任職至65歲。根據第98(3)條，法官只可因行為不當或無能力而被免職，且須由總理或首席大法官提出申述，並經總統委任的審裁庭建議。第98(8)條禁止在法官獲委任後，以不利於他的方式更改其薪酬及其他任職條款。《憲法》亦限制國會討論法官的行為，並為下級法院的司法人員設立司法服務委員會。[8]

這個制度有兩項特點引起爭論。法官可在65歲後以固定任期獲再度委任。《憲法》亦容許委任司法專員，在有限期間內行使高等法院法官的權力。[9] 批評者認為，短期委任削弱了獨立性所賴以維繫的任期保障。支持者則回應，這個制度讓司法機構得以招攬資深從業者及留住經驗豐富的法官，並補充至今沒有任何案件顯示有法官因其裁決而受罰。兩種論點都有道理。對商業訴訟當事人而言，商業法官的實際表現比形式上的辯論更為重要。而這方面的紀錄普遍被視為出色。

法官及其商業專長

最高法院的法官包括上訴法院法官、上訴分庭法官、高等法院法官、高級法官、國際法官及司法專員。2026年10月，司法機構列出32名法官（包括首席大法官）及26名國際法官。[10] 國際法官主要在新加坡國際商業法庭審案；該法庭於2015年作為普通庭的一個分庭成立，將在第F部分第III章探討。[11]

Sundaresh Menon曾任商業訴訟律師及總檢察長，自2012年11月6日起出任首席大法官。[12] 他任內的特點包括法院重組、司法機構商業及國際工作的擴展，以及對科技的持續關注。2026年10月，他向一群澳洲司法人員表示，訴訟當事人願意接受不利結果，歸根究柢取決於他們對法院的信任程度。他警告，對人工智能不加批判的熱衷，或會削弱司法獨立及誠信。[13] 這番話準確描述了法院的經濟功能。一個連敗訴方也信任的法院，令其判決在大多數情況下得以自動履行，既節省強制執行的成本，亦令商業糾紛的結果更可預測。人工智能在金融中心的應用，是第K部分第IV章的主題。

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註釋

1. Wikipedia, “Proclamation of Singapore”（2026年11月瀏覽）：1965年8月9日的宣言是 “the official declaration that marked Singapore’s separation from Malaysia”。 ↩
2. Wikipedia, “Supreme Court of Singapore”（2026年11月瀏覽）：Supreme Court of Judicature Act於1969年制定，以 “regularise the judicial system”，“Coming into force on 9 January 1970”。Supreme Court of Singapore, “Celebrating 200 years of upholding the Rule of Law”，judiciary.gov.sg，引述於第A部分第III章。 ↩
3. Wikipedia, “Law of Singapore”（2026年11月瀏覽）：設立常設上訴法院 “paved the way for the abolition of all appeals to the Privy Council with effect from 8 April 1994”；根據1994年的Practice Statement，若遵從其本身及樞密院的裁決 “would cause injustice in a particular case”，上訴法院可偏離這些裁決，而這項權力須 “exercised sparingly”。 ↩
4. Wikipedia, “Law of Singapore”（2026年11月瀏覽）：Civil Law Act第5條 “on 12 November 1993 by the Application of English Law Act 1993” 被廢除；根據第3條，普通法繼續適用 “so far as it is applicable to the circumstances of Singapore and its inhabitants”；根據第4條，只有 “listed in the Schedules to the Act apply or continue to apply in Singapore” 的英國成文法適用；這次廢除突顯了法律制度的獨立地位。 ↩
5. Allen & Gledhill, “New appellate structure in Singapore Supreme Court implemented on 2 January 2021”（2026年11月瀏覽）：由Constitution of the Republic of Singapore (Amendment) Act 2019及Supreme Court of Judicature (Amendment) Act 2019作出的修改 “took effect on 2 January 2021”；高等法院 “has been renamed the General Division of the High Court”；“Other appeals will be heard by the Appellate Division”；“The Appellate Division has no criminal jurisdiction.” ↩

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6. Supreme Court of Singapore, "Role of the Supreme Court"，judiciary.gov.sg（2026年10月1日最後更新）：普通庭審理 "All criminal offences committed in Singapore" 及 "Civil cases where the value of the claim exceeds $250,000"、來自國家法院及審裁處的上訴，以及專門案件表上的案件；上訴法院審理 "All criminal appeals against decisions made by the General Division in the exercise of its original criminal jurisdiction" 及指明的民事上訴；上訴分庭 "does not have criminal jurisdiction"。 ↩

7. Constitution of the Republic of Singapore，第93條及第95(1)條，constituteproject.org上的文本（"Singapore 2016"，2026年11月瀏覽）："The judicial power of Singapore shall be vested in a Supreme Court and in such subordinate courts as may be provided by any written law for the time being in force"；首席大法官及法官 "shall be appointed by the President if he, acting in his discretion, concurs with the advice of the Prime Minister"。Wikipedia, "Supreme Court of Singapore"（2026年11月瀏覽）："All members of the Bench are appointed by the President of Singapore"；根據第95條，"the Prime Minister must also consult the Chief Justice before tendering advice on the matter to the President"。 ↩

8. Constitution of the Republic of Singapore，第98(1)、(3)及(8)條，constituteproject.org上的文本（"Singapore 2016"，2026年11月瀏覽）：法官 "shall hold office until he attains the age of 65 years"；只可在轉介審裁庭後，"on the ground of misbehaviour or of inability" 被免職；法官的 "The remuneration and other terms of office (including any pension or gratuity)" "shall not be altered to his disadvantage after his appointment." Constitution of the Republic of Singapore，Singapore Statutes Online現行版本的目錄（sso.agc.gov.sg，2026年11月瀏覽）：第99條 "Restriction on Parliamentary discussion of conduct of person holding high judicial office"；第9部第3章 "The Judicial Service Commission"，第111B至111I條。 ↩

9. Wikipedia, "Supreme Court of Singapore"（2026年11月瀏覽）：任期 "until the age of 65, but may be re-appointed"；司法專員具有 "the same powers and immunities as High Court Judges"（第94(4)條）。 ↩

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10. Supreme Court of Singapore, “Structure of the Supreme Court”，judiciary.gov.sg（2026年10月1日最後更新）：法官包括上訴法院法官、上訴分庭法官、高等法院法官、高級法官、國際法官及司法專員；32名法官（包括首席大法官）及26名國際法官。 ↩

11. Supreme Court of Singapore, “Singapore International Commercial Court”，judiciary.gov.sg（2026年11月瀏覽）：SICC “was established in 2015”，是 “a division of the General Division of the High Court and part of the Supreme Court of Singapore”，設有 “a diverse panel of eminent international and local judges”。 ↩

12. Wikipedia, “Supreme Court of Singapore”（2026年11月瀏覽），資料框：首席大法官Sundaresh Menon，於 “6 November 2012” 獲委任。 ↩

13. Sundaresh Menon，首席大法官，在Australian Judicial Officers Association Colloquium 2026的演辭，布里斯班，2026年10月9日，judiciary.gov.sg，第11段及第72段：“That willingness to accept an adverse outcome ultimately rests on the degree of trust that is reposed in the courts”；“uncritical enthusiasm may weaken judicial independence and integrity”。 ↩

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