The common law heritage

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Reception through the Charter of 1826 and the Ordinance of 1878

The legal foundations of British Singapore, traced in Part A, lie in the Second Charter of Justice of 27 November 1826. The Charter empowered the new Court of Judicature to give judgment "according to Justice and Right". Courts later read that clause as introducing the English statutes, common law and equity in force at that date, so far as they suited local conditions and could be applied without injustice.[1] The reception made Singapore a common law jurisdiction from its first decade, long before the colony had a legislature of its own.

Commercial law received a second, more specific foundation in 1878. The Civil Law Ordinance of that year provided that, in questions of mercantile law, the law to be administered in the Straits Settlements was the same as that administered in England at the corresponding period, unless local legislation provided otherwise.[2] Chapter I of Part B described what this meant for the merchants, who dealt with a commercial law that their counterparties in London understood.

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The rule had a price. Its wording, which later became section 5 of the Civil Law Act, made it difficult to know which English statutes applied in Singapore at any given time. Every new English Act on banking, insurance or the sale of goods raised the question of whether it had silently become part of Singapore law. After independence this uncertainty became an embarrassment for a sovereign state, since the content of its commercial law depended in part on the decisions of a foreign Parliament.[3]

The Application of English Law Act 1993

Parliament resolved the problem with the Application of English Law Act 1993. The Act repealed section 5 of the Civil Law Act on 12 November 1993. Section 3 of the new Act provides that the common law of England, including the principles of equity, so far as it was part of Singapore law before that date, continues to be part of Singapore law "so far as it is applicable to the circumstances of Singapore and its inhabitants".[4] The qualification allows Singapore courts to modify received principles where local conditions require it.

Sections 4 and 5 deal with English statutes. Only the English enactments listed in the schedules to the Act apply in Singapore. The Act states expressly that no other English enactment is part of Singapore law.[5] The list closed the door to automatic reception. From 1993 onwards, a change in English commercial legislation affects Singapore only if the Singapore Parliament adopts it. For a commercial party, the reform replaced an open question with a closed list, which is the kind of certainty that the drafters of a loan agreement need.

The end of Privy Council appeals and the Practice Statement of 1994

The second step towards an independent common law concerned the courts. Until 1994 the Judicial Committee of the Privy Council in London remained the final court of appeal for Singapore, as it had been for the Crown colony. After a permanent Court of Appeal had been created, Parliament abolished all appeals to the

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Privy Council with effect from 8 April 1994 through the Judicial Committee (Repeal) Act 1994. The Court of Appeal thereby became the final appellate court of Singapore.[6]

Three months later the Court of Appeal explained how it would use its new position. In a Practice Statement of 11 July 1994, it declared that it would normally treat its own earlier decisions and those of the Privy Council as binding. It would, however, depart from them where adherence would "constrain the development of the law in conformity with the circumstances of Singapore". The court added that it would use this power sparingly, because a retrospective change could disturb contractual and proprietary rights.[7]

The caution expressed in that statement matters for the financial centre. A court that announces its freedom to change the law, and at once promises to protect existing contracts, gives commercial parties both flexibility and stability. The statement became the charter of what Singapore lawyers call the development of an autochthonous legal system, a law grown in Singapore from English roots.

A Singapore common law

Since independence, the civil law of Singapore has developed distinctly from English common law, while English decisions remain persuasive authority in Singapore courts without binding them.[8] Chapter I of Part F places this development in the wider context of the rule of law. In practice, Singapore judges read English, Australian, Canadian and other Commonwealth judgments with care and often follow them. Where the reasoning does not suit Singapore, they decline to follow it, citing their own earlier decisions first. The leading treatises on Singapore contract law, written by Singapore judges and academics, have become reference works in their own right.[9]

The development has a reporting infrastructure. The Singapore Academy of Law publishes the Singapore Law Reports, first issued in 1992 under an exclusive licence from the Supreme Court, and manages the LawNet database. It has also republished the cases decided since 1965 in special volumes of the reports.[10] A foreign lawyer

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asked to advise on Singapore law can therefore find the authorities in English, in a single official series, with an online database that covers the whole period since independence.

The courts today

The Supreme Court of Singapore comprises the Court of Appeal and the High Court. In 2021 the High Court was divided into a General Division, which took over its first-instance jurisdiction, and an Appellate Division, which hears certain civil appeals.[11] The Singapore International Commercial Court, established on 5 January 2015, sits as a division of the General Division and hears claims of an international and commercial nature, with a bench that includes international judges from civil law and common law countries.[12] Chapter III of Part F examines the court in detail. Its relevance here lies in what it adds to the governing law decision: a party that chooses Singapore law can also choose a Singapore court staffed partly by judges from the jurisdictions of its counterparties.

Notes

1. Wikipedia, “Law of Singapore” (accessed November 2026): the Charter conferred “full Power and Authority … to give and pass Judgement and Sentence according to Justice and Right”; English statutes, common law and equity in force on 27 November 1826 applied unless unsuitable to local circumstances. ↩
2. Wikipedia, “Law of Singapore” (accessed November 2026): the Civil Law Ordinance 1878 required that the law administered “was to be the same as that administered in England at the corresponding period”, unless local law provided otherwise. ↩
3. Wikipedia, “Law of Singapore” (accessed November 2026): the wording of the provision caused difficulty in deciding which English statutes applied; it was repealed in 1993. ↩

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4. Wikipedia, “Law of Singapore” (accessed November 2026): section 5 of the Civil Law Act was repealed on 12 November 1993; section 3 of the Application of English Law Act continues English common law and equity “so far as it is applicable to the circumstances of Singapore and its inhabitants”. ↩
5. Wikipedia, “Law of Singapore” (accessed November 2026): only the English statutes listed in the Schedules apply or continue to apply, and “no other English enactment is part of Singapore law”. ↩
6. Wikipedia, “Law of Singapore” (accessed November 2026): the creation of a permanent Court of Appeal “paved the way for the abolition of all appeals to the Privy Council with effect from 8 April 1994”; the Judicial Committee (Repeal) Act 1994 (No. 2 of 1994) repealed the Judicial Committee Act 1966. Wikipedia, “Supreme Court of Singapore” (accessed November 2026): “The Court of Appeal became Singapore’s final appellate court”. ↩
7. Wikipedia, “Law of Singapore” (accessed November 2026), on the Practice Statement of 11 July 1994: the Court of Appeal could depart from earlier decisions where adherence would “constrain the development of the law in conformity with the circumstances of Singapore”, a power to be used sparingly given the risk of disturbing contractual and proprietary rights retrospectively. ↩
8. Wikipedia, “Law of Singapore” (accessed November 2026): since independence “the civil law of Singapore has developed distinctly from the English common law”; English decisions are “not considered binding” but “are still persuasive”. ↩
9. Andrew Phang Boon Leong (ed.), *The Law of Contract in Singapore*, Singapore, Academy Publishing, 2012. ↩
10. Wikipedia, “Law of Singapore” (accessed November 2026): the Singapore Academy of Law publishes the Singapore Law Reports, first published in 1992 “under an exclusive licence from the Supreme Court of Singapore”, manages the LawNet database and has republished post-1965 cases in special volumes. ↩

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11. Wikipedia, “Supreme Court of Singapore” (accessed November 2026): the Supreme Court comprises the Court of Appeal and the High Court; in 2021 the High Court was in effect split into a General Division and an Appellate Division, the latter with “only civil appellate jurisdiction”. ↩
12. Wikipedia, “Singapore International Commercial Court” (accessed November 2026): established on 5 January 2015; “a division of the General Division of the Singapore High Court”; International Judges from civil and common law countries; Singapore Courts, “Singapore International Commercial Court”, judiciary.gov.sg (accessed November 2026): a division of the General Division of the High Court hearing claims of an “international and commercial nature”. ↩

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