新加坡的司法机构与最高法院

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从殖民地法院到国家司法机构

1965年8月9日的独立并未中断法院的工作。[1]殖民地时期的最高法院继续开庭，英国普通法继续适用，伦敦的枢密院司法委员会仍是终审上诉法院。1969年的《最高法院司法法》于1970年1月9日生效，规范了共和国的司法体系，并将最高法院重新确立为一个国家机构。[2]对投资者而言，这种连续性比新的名称更重要。一份在1964年受新加坡法律管辖的商业合同，到了1966年仍以同样的方式、依据同样的原则、并在很大程度上由同一批法官加以解释。

与伦敦的决裂是逐步完成的。向枢密院上诉的途径在二十年间不断受到限制，并自1994年4月8日起被完全废除。同年，上诉庭在一份实务声明中宣布，如果遵循其本身先前的判决或枢密院的判决会在个案中造成不公，它将不再视自己受这些判决约束。上诉庭补充说，这项权力将审慎行使。[3]这一措辞的审慎本身就是关于法律确定性的一种表态。一个轻易改变先例的法院，或许能在眼前的案件中实现公正，却会动摇成千上万依赖旧规则的当事人的预期。

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与之相应的立法是《1993年英国法适用法》。该法于1993年11月12日废除了《民事法》第5条；该条规定，凡出现商法问题，便整体引入英国商法。新法规定，普通法和衡平法仅在适用于新加坡及其居民的情况下，才继续构成新加坡法律的一部分。英国成文法如今只有列入该法附表的才予以适用。[4]这项改革终结了一种使新加坡商法依附于威斯敏斯特立法的安排。它还为从业者提供了一份固定的英国成文法清单，使法律更易于查明。

2021年以来的法院架构

现行架构始于2021年1月2日，即2019年宪法和法律修订生效之日。高等法院被分为两个庭。原高等法院，包括新加坡国际商业法庭和家事庭，更名为高等法院普通庭；新设的上诉分庭则接手不属于上诉庭专属管辖的民事上诉案件。[5]这项改革是对上诉案件日益增多的回应。它使上诉庭得以集中处理刑事上诉、涉及公共或法律重要问题的几类民事上诉，以及法律的发展。

普通庭审理提交至该庭的所有在新加坡发生的刑事犯罪，以及索赔金额超过250,000元的民事案件。它还审理来自国家法院和审裁庭的上诉，以及其专门案件清单所列的案件。上诉庭审理所有针对普通庭在行使原审刑事管辖权时所作判决的刑事上诉，以及规定类别的民事上诉。上诉分庭不具有刑事管辖权。[6]最高法院之下设有国家法院和家事司法法院，处理绝大多数刑事、民事和家事案件。

任命、任期与独立性保障

司法机构的宪法依据很简短。第93条将新加坡的司法权赋予最高法院以及成文法所规定的下级法院。根据第95(1)条，首席大法官和最高法院其他法官由总统任命，前提是总统在行使其酌情权时同意总理的建议。总理在就其他法官的任命提出建议之前，必须咨询首席大法官。[7]因此，行政机关掌控着任命权，但须受总统的制衡，并有司法机构首长的参与。

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法官一经任命，便享有普通法传统中的经典保障。第98(1)条规定，法官任职至65岁。根据第98(3)条，法官只有在行为不端或丧失能力的情况下，经总理或首席大法官提出陈述，并依总统所委任审裁庭的建议，方可被免职。第98(8)条禁止在法官任命后作出不利于其的薪酬及其他任职条件变更。《宪法》还限制国会讨论法官的行为，并为下级法院的司法官员设立了司法服务委员会。[8]

该制度有两个特点引发了争论。法官年满65岁后可获固定任期的再任命。《宪法》还允许任命司法委员，他们在有限期间内行使高等法院法官的权力。[9]批评者认为，短期任命削弱了独立性所依赖的任期保障。支持者则回应说，这一制度使司法机构得以招揽资深从业者并留住经验丰富的法官，并补充说，迄今没有任何案例显示有法官因其判决而受到惩罚。两种观点都有道理。对于商事诉讼当事人而言，商事审判庭的实际记录比形式上的争论更为重要。而这一记录普遍被认为是出色的。

法官队伍及其商事专长

最高法院的法官队伍包括上诉庭法官、上诉分庭法官、高等法院法官、高级法官、国际法官和司法委员。2026年10月，司法机构共列有32名法官（包括首席大法官）和26名国际法官。[10]国际法官主要在新加坡国际商业法庭任职；该法庭于2015年作为普通庭的一个分支设立，将在第F部分第III章中探讨。[11]

梅达顺（Sundaresh Menon）曾是商事诉讼律师并担任总检察长，自2012年11月6日起出任首席大法官。[12]他的任期以法院架构重组、司法机构商事和国际业务的扩展以及对科技的持续关注为标志。2026年10月，他对一批澳大利亚司法官员表示，诉讼当事人是否愿意接受不利结果，归根结底取决于他们对法院的信任程度。他警告说，对人工智能不加批判的热情可能会削弱司法独立和司法诚信。[13]这番话精准地描述了法院的经济功能。一个赢得败诉方

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信任的法院，能使其判决在大多数情况下得到自觉履行，从而节省执行成本，并使商业纠纷的结果更可预期。金融中心对人工智能的运用是第K部分第IV章的主题。

注释

1. Wikipedia，“Proclamation of Singapore”（2026年11月访问）：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月访问）：Supreme Court of Judicature Act于1969年颁布，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，转引自第A部分第III章。↩
3. Wikipedia，“Law of Singapore”（2026年11月访问）：常设上诉庭的设立“paved the way for the abolition of all appeals to the Privy Council with effect from 8 April 1994”；根据1994年的实务声明，若遵循上诉庭本身及枢密院的判决“would cause injustice in a particular case”，上诉庭可偏离这些判决，该权力须“exercised sparingly”。↩
4. Wikipedia，“Law of Singapore”（2026年11月访问）：Civil Law Act第5条“on 12 November 1993 by the Application of English Law Act 1993”被废除；根据第3条，普通法继续适用，“so far as it is applicable to the circumstances of Singapore and its inhabitants”；根据第4条，只有“listed in the Schedules to the Act apply or continue to apply in Singapore”的英国成文法才予以适用；这一废除彰显了法律体系的独立地位。↩
5. Allen & Gledhill，“New appellate structure in Singapore Supreme Court implemented on 2 January 2021”（2026年11月访问）：由Constitution of the Republic of Singapore (Amendment) Act 2019和Supreme Court of Judicature (Amendment) Act 2019作出的修改“took effect on 2 January

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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.” ↩

6. Supreme Court of Singapore，“Role of the Supreme Court”，judiciary.gov.sg（最后更新于2026年10月1日）：普通庭审理“All criminal offences committed in Singapore”和“Civil cases where the value of the claim exceeds $250,000”、来自国家法院和审裁庭的上诉以及专门案件清单所列案件；上诉庭审理“All criminal appeals against decisions made by the General Division in the exercise of its original criminal jurisdiction”以及规定类别的民事上诉；上诉分庭“does not have criminal jurisdiction”。↩

7. Constitution of the Republic of Singapore，第93条和第95(1)条，constituteproject.org上的文本（“Singapore 2016”，2026年11月访问）：“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”；首席大法官和法官“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月访问）：“All members of the Bench are appointed by the President of Singapore”；根据第95条，“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)和(8)条，constituteproject.org上的文本（“Singapore 2016”，2026年11月访问）：法官“shall hold office until he attains the age of 65 years”；以“on the ground of misbehaviour or of inability”为由免职，须先提交审裁庭；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现行版本目录（sso.agc.gov.sg，2026年11月访问）：第99条“Restriction on Parliamentary discussion of conduct of person holding high judicial office”；第9编第3章“The Judicial Service Commission”，第111B–111I条。↩

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9. Wikipedia，“Supreme Court of Singapore”（2026年11月访问）：任期“until the age of 65, but may be re-appointed”；司法委员拥有“the same powers and immunities as High Court Judges”（第94(4)条）。↩

10. Supreme Court of Singapore，“Structure of the Supreme Court”，judiciary.gov.sg（最后更新于2026年10月1日）：法官队伍包括上诉庭法官、上诉分庭法官、高等法院法官、高级法官、国际法官和司法委员；32名法官（包括首席大法官）和26名国际法官。↩

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

12. Wikipedia，“Supreme Court of Singapore”（2026年11月访问），信息框：首席大法官梅达顺，“6 November 2012”任命。↩

13. Sundaresh Menon，首席大法官，在Australian Judicial Officers Association Colloquium 2026上的演讲，布里斯班，2026年10月9日，judiciary.gov.sg，第11段和第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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