

**Corruption, Drug Trafficking and
Other Serious Crimes (Confiscation of Benefits)
(Amendment) Bill**

Bill No. 33/2007.

Read the first time on 27th August 2007.

A BILL

i n t i t u l e d

An Act to amend the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of long title

2. The long title to the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the words “derived from”, the words “, and to combat,”.

Amendment of section 2

3. Section 2(1) of the principal Act is amended —

- (a) by deleting the words “the concealing” in paragraph (c) of the definition of “criminal conduct” and substituting the words “the acquisition, possession, use, concealing”;
- (b) by deleting the words “the concealing” in paragraph (c) of the definition of “drug trafficking” and substituting the words “the acquisition, possession, use, concealing”; and
- (c) by inserting, immediately after the definition of “serious offence”, the following definition:

“ “Suspicious Transaction Reporting Officer” means an authorised officer —

- (a) who has been appointed by the Minister as a Suspicious Transaction Reporting Officer for the purposes of this Act; and
- (b) who has his appointment as a Suspicious Transaction Reporting Officer published in the *Gazette*.”.

Amendment of section 22

4. Section 22 of the principal Act is amended —

- (a) by deleting the words “High Court” wherever they appear in subsections (1) to (4) and substituting in each case the word “court”; and

- (b) by deleting the word “Court” in subsections (1) and (2)(b) and substituting in each case the word “court”.

Deletion and substitution of heading of Division 3 of Part V

- 5 **5.** Part V of the principal Act is amended by deleting the heading of Division 3 and substituting the following division heading:

“Division 3 — Record-keeping and suspicious transaction reports”.

Amendment of section 39

- 6.** Section 39 of the principal Act is amended —
- 10 (a) by inserting, immediately before the words “drug trafficking” in the 7th line of subsection (1), the words “any act which may constitute”;
- (b) by deleting the words “an authorised officer” in the penultimate line of subsection (1) and substituting the words “a Suspicious Transaction Reporting Officer”;
- 15 (c) by deleting “\$10,000” in subsection (2) and substituting “\$20,000”; and
- (d) by deleting the words “discloses to an authorised officer” in subsection (6) and substituting the words “discloses in good faith to a Suspicious Transaction Reporting Officer”.
- 20

New section 40A

- 7.** The principal Act is amended by inserting, immediately after section 40, the following section:

“Information and identity of informers not to be disclosed

- 25 **40A.**—(1) Except as provided in subsection (3) —
- (a) no information disclosed by an informer shall be admitted in evidence in any civil or criminal proceedings; and
- (b) no witness in any civil or criminal proceedings shall be obliged —
- 30 (i) to disclose the name and address of any informer; or

(ii) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of the informer.

(2) If any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any informer is named or described or which may lead to his discovery, the court shall cause those entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If a court —

(a) in any proceedings before it for an offence under any written law, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true; or

(b) in any other proceedings, is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer,

the court may permit inquiry and require full disclosure concerning the informer.

(4) In this section, “informer” means a person who makes a disclosure under section 39(1).”.

Amendment of section 41

8. Section 41 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Notwithstanding section 56 and any other written law or rule of law, a Suspicious Transaction Reporting Officer may communicate any thing —

(a) disclosed to him under section 39(1), 48C or 48E; or

(b) forwarded to him under section 48D,

to a corresponding authority of a foreign country if —

(i) that thing may be relevant to an investigation by that authority into a foreign drug trafficking offence or a foreign serious offence; and

- (ii) the conditions in subsection (2) are satisfied.”;
- (b) by deleting the words “an authorised officer under section 39(1)” in subsection (2)(a) and substituting the words “a Suspicious Transaction Reporting Officer under section 39(1), 48C or 48E or an immigration officer under section 48C”; and
- (c) by deleting the definition of “Suspicious Transaction Reporting Officer” in subsection (3).

Amendment of section 46

9. Section 46 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(a);
- (b) by deleting the comma at the end of paragraph (b) of subsection (1) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
 - “(c) acquires, possesses or uses that property,”;
- (c) by inserting, immediately after the words “inadequate consideration” in subsection (3), the words “, or has possession of or uses such property,”; and
- (d) by deleting the word “Concealing” in the section heading and substituting the words “Acquiring, possessing, using, concealing”.

Amendment of section 47

10. Section 47 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(a);
- (b) by deleting the comma at the end of paragraph (b) of subsection (1) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
 - “(c) acquires, possesses or uses that property,”;
- (c) by inserting, immediately after the words “inadequate consideration,” in subsection (3), the words “, or has possession of or uses such property,”; and

- (d) by deleting the word “Concealing” in the section heading and substituting the words “Acquiring, possessing, using, concealing”.

New Part VIA

- 5 **11.** The principal Act is amended by inserting, immediately after section 48, the following Part:

“PART VIA

CROSS BORDER MOVEMENTS OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS

10 **Object of this Part**

- 48A.** The object of this Part is to impose measures for the disclosure of information regarding movements of physical currency and bearer negotiable instruments into and out of Singapore for the purpose of detecting, investigating and prosecuting drug trafficking
15 offences and serious offences.

Interpretation of this Part

48B.—(1) In this Part —

“bearer negotiable instrument” means —

- (a) a traveller’s cheque; or
20 (b) any negotiable instrument that is in bearer form, indorsed without any restriction, made out to a fictitious payee or otherwise in such form that title thereto passes upon delivery,

and includes a negotiable instrument that has been signed but
25 with the payee’s name omitted;

“business day” means a day other than a Saturday, Sunday or public holiday;

“cash” means physical currency or a bearer negotiable instrument;

“commercial goods carrier” means a person who, in the normal course of a business, carries goods or mail for reward, and includes his employee;

5 “commercial passenger carrier” means a person who, in the normal course of a business, carries passengers for reward, and includes his employee;

10 “eligible place” means any islet, landing place, wharf, dock, railway or quay or premises of a provider of port services or facilities licensed or exempted under the Maritime and Port Authority of Singapore Act (Cap. 170A) or the Civil Aviation Authority of Singapore Act (Cap. 41);

15 “embarkation location” means an immigration control post, place of embarkation, authorised airport, authorised point of departure, authorised train checkpoint or authorised departing place declared under section 5(3) of the Immigration Act (Cap. 133);

“immigration officer” means the Controller of Immigration or any immigration officer appointed under section 3 of the Immigration Act, and includes an officer of customs;

20 “physical currency” means the coin and printed money (whether of Singapore or of a foreign country) that —

(a) is designated as legal tender; and

(b) circulates as, and is customarily used and accepted as, a medium of exchange in the country of issue;

25 “printed money” means money comprising a note printed, written or otherwise made on polymer, paper or any other material;

“railway” has the same meaning as in the Railways Act (Cap. 263) but does not include any rapid transit system set up under the Rapid Transit Systems Act (Cap. 263A);

30 “send” includes send through the post or by means of another person.

(2) In determining whether an amount of foreign currency (including an amount in which a document is denominated) is equivalent to a Singapore dollar amount under this Part, the amount

of foreign currency is to be translated to Singapore currency at the exchange rate applicable at the relevant time.

(3) For the purposes of this Part —

- 5 (a) a person moves cash out of Singapore if the person takes or sends the cash (whether in a receptacle or otherwise) out of Singapore; and
- (b) a person moves cash into Singapore if the person brings or sends the cash (whether in a receptacle or otherwise) into Singapore.

10 **Reports about cross border movements of cash**

48C.—(1) A person shall not move or attempt to move into or out of Singapore cash the total value of which exceeds the prescribed amount, without giving a report in respect of the movement in accordance with this section.

15 (2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

20 (3) It shall be a defence for a person charged with an offence under subsection (2) to prove that he did not know and had no reasonable ground to believe that the receptacle within which the cash was moved or attempted to be moved contained cash.

25 (4) For the purposes of subsection (1), the prescribed amount is \$30,000 (or its equivalent in a foreign currency) or such other amount as the Minister may, by notification in the *Gazette*, specify.

(5) A report under this section shall —

- (a) be in the prescribed form;
- (b) contain full and accurate information relating to the matter being reported as is specified in the form;
- 30 (c) be given —
- (i) to an immigration officer if the movement of the cash is to be effected by a person bringing or taking the cash into or out of Singapore with the person; or

(ii) in any other case, to a Suspicious Transaction Reporting Officer or, if regulations permit, to an immigration officer; and

(d) be given at the prescribed time.

5 (6) The Minister may make regulations for the matters referred to in subsection (5)(a), (c) and (d); and may, for the purposes of subsection (5)(a) and (d), prescribe different forms and different times —

(a) for different manners of moving cash into and out of Singapore; and

10 (b) for different classes of persons.

(7) Subsection (1) shall not apply if —

(a) the person is a commercial passenger carrier; and

(b) the cash is in the possession of any of the carrier's passengers.

15 (8) Subsection (1) shall not apply if —

(a) the person is a commercial goods carrier;

(b) the cash is carried on behalf of another person;

(c) the other person has not disclosed to the carrier that the goods carried on behalf of the other person include cash; and

20 (d) the carrier does not know and has no reasonable ground to believe that the goods carried on behalf of the other person include cash.

(9) The burden of proving the matters referred to in subsection (7) or (8) lies with the person who wishes to rely on that subsection.

25 **Obligation of immigration officers**

48D. If a report under section 48C is given to an immigration officer, he must, on request, within a reasonable time forward it to a Suspicious Transaction Reporting Officer.

Reports about receipts of cash from outside Singapore

30 **48E.**—(1) A person who receives cash the total value of which exceeds the prescribed amount, which is moved to the person from outside Singapore, shall make a report in respect of the receipt in

accordance with this section before the end of the period of 5 business days beginning on the day of the receipt.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) It shall be a defence for a person charged with an offence under subsection (2) to prove that he did not know and had no reasonable ground to believe that the cash was moved from outside Singapore.

(4) For the purposes of subsection (1), the prescribed amount is \$30,000 (or its equivalent in a foreign currency) or such other amount as the Minister may, by notification in the *Gazette*, specify.

(5) A report under this section shall —

(a) be in the prescribed form;

(b) contain full and accurate information relating to the receipt being reported as is specified in the form; and

(c) be given to a Suspicious Transaction Reporting Officer.

Questioning and search powers in relation to cash

48F.—(1) A person who —

(a) is about to leave Singapore;

(b) is in an embarkation location for the purpose of leaving Singapore; or

(c) arrives in Singapore,

must, if required to do so by an authorised officer or immigration officer —

(i) declare whether or not the person has with him any cash;

(ii) declare the total value of any cash that the person has with him;

(iii) declare whether or not, to the best of the person's knowledge and belief, a report under section 48C has been given in respect of any cash that the person has with him;

(iv) produce to the officer any cash that the person has with him;
and

(v) answer any question the officer may have with respect to the cash.

5 (2) An authorised officer or immigration officer may, with such assistance as is reasonable and necessary, examine any article or baggage which a person has with him if the person —

(a) is about to leave Singapore;

10 (b) is in an embarkation location for the purpose of leaving Singapore; or

(c) has arrived in Singapore,

for the purpose of finding out whether the person has with him any cash in respect of which a report under section 48C is required.

15 (3) An authorised officer or immigration officer may, with such assistance as is reasonable and necessary, search a person for the purpose of finding out whether the person has with him any cash in respect of which a report under section 48C is required, so long as —

(a) the person —

(i) is about to leave Singapore;

20 (ii) is in an embarkation location for the purpose of leaving Singapore; or

(iii) has arrived in Singapore; and

25 (b) the officer has reasonable grounds to suspect that there is on the person or in clothing being worn by the person, cash in respect of which a report under section 48C is required.

30 (4) If an authorised officer or immigration officer has reasonable grounds to suspect that any cash found in the course of an examination or search under subsection (2) or (3) may afford evidence as to the commission of an offence under section 48C, the officer may seize the cash.

(5) A person must not be searched under subsection (3) except by a person of the same sex.

(6) An authorised officer or immigration officer, and any person assisting the officer, may board any motor vehicle, train, vessel or

aircraft or enter any premises for the purpose of exercising the powers conferred by subsection (1), (2), (3) or (4).

(7) An authorised officer or immigration officer may, with such assistance as is reasonable and necessary —

- 5 (a) board a motor vehicle, train, vessel or aircraft; and
- (b) examine or search the motor vehicle, train, vessel or aircraft, and any thing found on the motor vehicle, train, vessel or aircraft,

10 for the purpose of ascertaining whether there is on board the motor vehicle, train, vessel or aircraft any cash in respect of which a report under section 48C is required.

 (8) Where an authorised officer or immigration officer has reasonable grounds to suspect that an offence under section 48C may have been committed, the officer may, with such assistance as is

15 reasonable and necessary —

- (a) enter any eligible place; and
- (b) search the place, and any thing found at or in it,

20 for the purpose of ascertaining whether there is at or in the place, or in the thing, any cash in respect of which a report under section 48C is required.

 (9) If an authorised officer or immigration officer has reasonable grounds to suspect that cash found in the course of a search under subsection (7) or (8) may afford evidence as to the commission of an offence under section 48C, the officer may seize the cash.

25 (10) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1), or pursuant to any such requirement knowingly or recklessly makes a declaration or gives an answer that is false in a material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

30 \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

Power to exempt

48G.—(1) The Minister may, by order published in the *Gazette*, with or without conditions, exempt any person or class of persons from section 48C or 48E, or both.

5 (2) If any exemption is granted under subsection (1) with conditions, the exemption operates only if the conditions are complied with.”.

Amendment of section 55

10 **12.** Section 55 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) An immigration officer within the meaning of section 48B may arrest without warrant any person whom he reasonably believes has committed an offence under section 48C.”.

Amendment of section 56

15 **13.** Section 56(1) of the principal Act is amended by inserting, immediately after the words “authorised officer”, the words “, Suspicious Transaction Reporting Officer or immigration officer within the meaning of section 48B”.

Amendment of section 57

20 **14.** Section 57 of the principal Act is amended —

(a) by inserting, immediately after the words “authorised officer”, the words “, Suspicious Transaction Reporting Officer or immigration officer within the meaning of section 48B”; and

25 (b) by inserting, immediately after the words “authorised officers” in the section heading, the words “, Suspicious Transaction Reporting Officers and immigration officers”.

Repeal and re-enactment of section 59

15. Section 59 of the principal Act is repealed and the following section substituted therefor:

30 **“Offences by bodies corporate, etc.**

59.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of

the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(6) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.”.

Amendment of section 60

16. Section 60(1) of the principal Act is amended by deleting “\$1,000” and substituting “\$5,000”.

Miscellaneous amendments

17. The principal Act is amended by deleting the words “on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 7 years or to both.” in sections 43(5), 44(5), 46(6) and 47(6) and substituting in each case the following words:

“on conviction —

(a) if the person is an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 7 years or to both; or

(b) if the person is not an individual, to a fine not exceeding \$1 million.”.

Savings provision

18. A person who immediately before the date of commencement of this Act is a Suspicious Transaction Reporting Officer within the meaning of section 41(3) of the principal Act in force immediately before that date shall be deemed to be a Suspicious Transaction Reporting Officer within

the meaning of section 2(1) of the principal Act until his appointment as such is revoked.

EXPLANATORY STATEMENT

This Bill seeks to amend the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) for the following main purposes:

- (a) to clarify when the duty to make suspicious transaction reports arises;
- (b) to extend the scope of the money laundering offences under the Act to the acquisition, possession and use of proceeds of crime;
- (c) to provide for a reporting system for cross border movements of physical currency and bearer negotiable instruments; and
- (d) to increase the penalties for various offences under the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to extend the scope of the Act to that of the combating of corruption, drug trafficking and other serious crimes. Measures in furtherance of this purpose are found in Division 3 of Part V and new Part VIA.

Clause 3 amends section 2(1) (Interpretation) to include, in the definitions of “criminal conduct” and “drug trafficking”, the acquisition, possession or use of proceeds of crime. These definitions are relevant to, inter alia, section 39 and the offences under Part VI.

The clause also introduces a definition for “Suspicious Transaction Reporting Officer”, formerly set out in section 41(3).

Clause 4 makes a technical amendment to section 22 (Variation of confiscation orders). Under the amended section, the power to issue a certificate under subsection (1) and the power to vary a confiscation order under subsection (4) may be exercised by any court of competent jurisdiction.

Clause 5 amends the heading of Division 3 of Part V to more accurately reflect its subject-matter.

Clause 6 amends section 39 (Duty to disclose knowledge or suspicion) to require a suspicious transaction report to be made so long as there are reasonable grounds to suspect that any property represents the proceeds of, or was or is intended to be used in connection with, an act which may constitute drug trafficking or criminal conduct. Thus the duty to make a report under the section will arise if a person (for example) reasonably suspects the property to be the proceeds of any offence, so long as the possibility that they may be the proceeds of a drug trafficking offence, serious offence, foreign drug trafficking offence or foreign serious offence cannot be ruled out.

The clause also amends section 39 to provide that the report is to be made to a Suspicious Transaction Reporting Officer rather than any authorised officer. In

addition, the fine for a failure to make the report is increased to \$20,000. Finally, the immunity under subsection (6) for a person making a report will only apply if the report is made in good faith.

Clause 7 inserts a new section 40A to provide for the protection from disclosure during proceedings of the identities of persons who make suspicious transaction reports under section 39.

Clause 8 amends section 41 (Communication of information to foreign authority) to enable a Suspicious Transaction Reporting Officer to disclose information forwarded to him under the new Part VIA to an authority of a foreign country, under certain conditions.

Clause 9 amends section 46 (Concealing or transferring benefits of drug trafficking) to create offences of the following:

- (a) acquiring, possessing or using one's benefits of drug trafficking; and
- (b) possessing or using the benefits of drug trafficking of another.

Clause 10 makes amendments to section 47 (Concealing or transferring benefits of criminal conduct) which correspond to those made under clause 9.

Clause 11 introduces a new Part VIA comprising sections 48A to 48G.

The new section 48A explains that the object of the new Part is to put in place measures for the reporting of cross border movements of physical currency and bearer negotiable instruments for the purpose of detecting, investigating and prosecuting drug trafficking offences and serious offences.

The new section 48B defines various expressions used in the new Part.

The new section 48C requires a person who moves physical currency or one or more bearer negotiable instruments (referred to collectively as cash) exceeding a specified threshold value to make a report. The report must be made to an immigration officer if the currency or instrument is carried with the person, and to a Suspicious Transaction Reporting Officer in all other cases. The report must be made at a time to be prescribed by regulations. The section contains exemptions to the requirement for a commercial passenger carrier in respect of cash in the possession of its passengers, and for a commercial goods carrier in respect of cash carried on behalf of another person that has not been disclosed to the carrier.

The new section 48D requires an immigration officer who receives a report under section 48C to forward it to a Suspicious Transaction Reporting Officer upon request.

The new section 48E requires a person who receives cash from outside Singapore exceeding a specified threshold value to make a report to a Suspicious Transaction Reporting Officer.

The new section 48F confers various powers on authorised officers and immigration officers for the purposes of the new Part. It requires a person who is about to leave or who has arrived in Singapore to make declarations concerning cash with him if so required. An authorised officer or immigration officer may examine articles and baggage, and search a person under certain conditions. He may also board a

conveyance to exercise those powers or to ascertain if there is on board the conveyance any cash for which a report is required. Finally, he may enter certain defined places to conduct a search for such cash. Any cash found in the course of a search that may afford evidence of an offence may be seized.

The new section 48G enables the Minister to exempt specified persons or classes of persons from the reporting requirements of the new Part.

Clause 12 amends section 55 (Powers of arrest and investigations) to enable an immigration officer to arrest without a warrant a person reasonably believed to have committed an offence under section 48C.

Clauses 13 and 14 make amendments to sections 56 (Preservation of secrecy) and 57 (Obstructing authorised officers), respectively, that are consequential to the amendments in clauses 6 and 11.

Clause 15 repeals and re-enacts section 59 (Offences committed by body corporate) to deal with the liability of officers, partners and other persons of partnerships, limited liability partnerships and unincorporated associations for offences committed by these entities under the Act.

Clause 16 increases the maximum amount under section 60 (Composition of offences) for which an offence may be compounded.

Clause 17 amends various penal provisions of the Act —

- (a) to increase the fine amounts; and
- (b) to prescribe different punishments for individuals and non-individuals.

Clause 18 is a savings provision in relation to persons who were Suspicious Transaction Reporting Officers immediately before the date of commencement of the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
