

Mutual Assistance in Criminal Matters (Amendment) and Other Matters Bill

Bill No. 35/2024.

Read the first time on 14 October 2024.

A BILL

i n t i t u l e d

An Act to amend the Extradition Act 1968, the Mutual Assistance in Criminal Matters Act 2000 and the Trustees Act 1967 to give effect to certain recommendations of the Financial Action Task Force and to enhance the legal framework for international assistance in criminal matters and extradition, and to make consequential amendments to certain other Acts.

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 is the Mutual Assistance in Criminal Matters (Amendment) and Other Matters Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

PART 1

AMENDMENT OF EXTRADITION ACT 1968

Amendment of section 2

2. In the Extradition Act 1968, in section 2(1), in the definition of “foreign State”, in paragraph (b), replace sub-paragraph (ii) with —

“(ii) any territory (including any territory specified in the Third Schedule);”.

Amendment of section 43

3. In the Extradition Act 1968, in section 43(2), replace “the official seal of a Minister in or” with “an official seal or public seal, or stamped with an official stamp, of that State or territory, or of a Minister, a department or an official of the government,”.

PART 2

AMENDMENT OF MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2000

Amendment of section 2

4. In the Mutual Assistance in Criminal Matters Act 2000 (called in this Part the MACMA), in section 2 —

(a) in subsection (1), delete “, unless the context otherwise requires”;

(b) in subsection (1), after the definition of “authorised officer”, insert —

““competent authority”, in relation to a foreign confiscation order, means an authority of a

foreign country that is competent under the laws of that foreign country to make the foreign confiscation order;”;

(c) in subsection (1), after the definition of “dealing”, insert —

““defendant” means a person against whom, or in relation to whose property, a foreign confiscation order is or may be made;”;

(d) in subsection (1), replace the definition of “foreign confiscation order” with —

““foreign confiscation order” —

(a) means an order made by a court or other competent authority of a foreign country, on or after the appointed date for that country, for the recovery, forfeiture or confiscation of —

(i) any property obtained or received in connection with an offence against the law of that country, or the value of that property; or

(ii) any property derived or realised, directly or indirectly, from any property mentioned in sub-paragraph (i), or the value of the derived or realised property; and

(b) includes an instrumentality forfeiture order;”;

(e) in subsection (1), in the definition of “instrumentality forfeiture order”, after “court”, insert “or other competent authority”;

(f) in subsection (1), in the definition of “instrumentality forfeiture order”, in paragraph (a), after “committed”, insert “or was intended to be committed”;

(g) in subsection (1), in the definition of “instrumentality forfeiture order”, in paragraph (b), after “was used”, insert “or was intended to be used”;

(h) in subsection (1), after the definition of “process”, insert —

5 ““property” means money or any movable or immovable property, including things in action and other intangible or incorporeal property;”;
and

(i) after subsection (4), insert —

10 “(5) For the purposes of this Act, judicial proceedings that are criminal proceedings, or proceedings before a competent authority, instituted in a prescribed foreign country, are concluded on the occurrence of any of the following events:

15 (a) the discontinuance of the proceedings;

(b) the satisfaction of a foreign confiscation order made in the proceedings, by —

(i) payment of the amount due under the order;

20 (ii) a defendant serving imprisonment in default;

(iii) the recovery of all property liable to be recovered; or

(iv) any other manner;

25 (c) if the proceedings involve a defendant —

(i) when the defendant is acquitted and —

(A) there is no right of appeal against the acquittal; or

30 (B) all rights of appeal against the acquittal have expired or are exhausted;

- (ii) when the defendant's conviction is quashed and —
 - (A) there is no right of appeal against the quashing of the conviction; or 5
 - (B) all rights of appeal against the quashing of the conviction have expired or are exhausted;
 - (iii) when a pardon in respect of the defendant has been granted and — 10
 - (A) there is no right of appeal against the grant of the pardon; or
 - (B) all rights of appeal against the grant of the pardon have expired or are exhausted; or 15
 - (iv) when the court or competent authority sentences or otherwise deals with the defendant in respect of the defendant's conviction for the offence without making a foreign confiscation order and — 20
 - (A) there is no right of appeal against the sentence or decision; or 25
 - (B) all rights of appeal against the sentence or decision have expired or are exhausted.
- (6) For the purposes of this Act, a foreign confiscation order is subject to appeal as long as — 30
- (a) an appeal or further appeal is pending against —
 - (i) the order; or

(ii) if the order was made on a conviction — the conviction; or

(b) if paragraph (a) does not apply and there is a right of appeal or further appeal against the order or conviction (if the order was made on a conviction) — the time for bringing the appeal or further appeal has not expired.”.

Amendment of section 4

5 **5.** In the MACMA, in section 4, after subsection (2), insert —

“(3) This Act does not prevent the provision of the following international assistance to a foreign country in relation to a person in Singapore, with the person’s consent:

15 (a) the recording of the person’s statement by a law enforcement agency for the purposes of any criminal matter in the foreign country;

(b) the transmission of the person’s statement to the appropriate authority of the foreign country by the Attorney-General or a law enforcement agency.

20 (4) In subsection (3), a “law enforcement agency” means an authority or person charged with the duty of investigating offences or charging offenders under any written law.”.

Amendment of section 16

25 **6.** In the MACMA, in section 16 —

(a) replace subsection (2) with —

“(2) Despite subsection (1)(b) but subject to this Part, any assistance mentioned in subsection (1)(b) may be provided to —

30 (a) a foreign country that is not a prescribed foreign country; or

(b) a prescribed foreign country in relation to a criminal matter involving a foreign offence that is not within the scope of the order made under section 17(1) (read with section 17(2) and (3)) for that country,

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if the appropriate authority of that country has given an undertaking to the Attorney-General that that country will comply with a future request by Singapore to that country for similar assistance in a criminal matter involving an offence that corresponds to the foreign offence for which assistance is sought.”; and

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(b) in subsection (3), replace “subsection (2)” with “subsection (2)(a)”.

Amendment of section 19

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7. In the MACMA, in section 19(2)(c)(vi), after “judicial proceedings”, insert “, or proceedings before a competent authority”.

Amendment of section 20

8. In the MACMA, in section 20 —

(a) in subsection (1), after “refused”, insert “by the Attorney-General”;

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(b) in subsection (1)(e)(i), replace “competent court or other authority in that country” with “court or other competent authority of that country, and all rights of appeal against the conviction, acquittal or pardon have expired or are exhausted”;

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(c) in subsection (1)(h), insert “or” at the end;

(d) in subsection (1), delete paragraphs (i) and (j); and

(e) after subsection (2), insert —

“(2A) A request by a foreign country for assistance to obtain any thing under section 22 or 23 or Division 6 must be refused by the Attorney-General if the appropriate authority of that country —

5 (a) fails to undertake that the thing will not be used for a matter other than the criminal matter in respect of which the request was made, except with the consent of the Attorney-General; or

10 (b) fails to undertake to do any of the following, upon conclusion of the criminal matter in respect of which the request was made, if the Attorney-General so requests:

15 (i) return the thing to the Attorney-General;

 (ii) dispose of the thing;

 (iii) otherwise handle the thing in accordance with the Attorney-General’s request.”.

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Amendment of section 21

9. In the MACMA, in section 21 —

(a) replace subsection (1) with —

25 “(1) Where the appropriate authority of a foreign country makes a request that evidence be taken in Singapore for the purposes of any criminal proceedings pending in a court in the foreign country, the Attorney-General may, by written notice, authorise a Magistrate to take the evidence.”;

30 (b) in subsection (2), replace “Upon receipt of the notice made under subsection (1),” with “Subject to any conditions that the Attorney-General may specify in the written notice made under subsection (1), upon receipt of that notice,”; and

(c) after subsection (8), insert —

“(8A) The Attorney-General may transmit the certified evidence referred to in subsection (2) to the appropriate authority that requested that evidence.”.

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New section 21A

10. In the MACMA, after section 21, insert —

“Taking statements for criminal investigations

21A.—(1) Where the appropriate authority of a foreign country makes a request that a statement be taken from a person (specified in the request) in Singapore for the purposes of any criminal investigation in the foreign country, the Attorney-General may, by written notice, direct an authorised officer to take the statement from the person.

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(2) Subject to any conditions that the Attorney-General may specify in the written notice made under subsection (1), upon receipt of the written notice, the authorised officer must do all of the following:

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(a) require the person to attend before the authorised officer;

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(b) examine orally the person;

(c) record the statement made by the person —

(i) in writing; or

(ii) in the form of an audiovisual recording;

(d) if the statement is recorded in writing and —

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(i) if the person understands English — read over the statement to the person; or

(ii) if the person does not understand English — ensure that the statement is interpreted for the person in a language that the person understands;

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(e) require the person to sign the statement, if it is in writing;

(f) send the statement to the Attorney-General.

(3) If the person fails to attend as required under subsection (2)(a), the authorised officer may report the matter to a Magistrate who may then issue a warrant ordering the person to attend before the authorised officer.

(4) The Attorney-General may transmit a statement mentioned in subsection (2)(f) to the appropriate authority that requested that statement.

(5) A statement taken under this section is not admissible in evidence, and must not be otherwise used, for the purposes of any judicial proceedings, disciplinary proceedings, or other proceedings, in Singapore.”.

Amendment of section 22

11. In the MACMA, in section 22 —

(a) replace subsection (5) with —

“(5) The proceedings in which the order mentioned in subsection (3) is made is to be conducted in the absence of the person to whom the criminal proceedings in the foreign country relates or of the person’s legal representative (if any), unless the court orders otherwise.”; and

(b) in subsection (8), replace “Proceedings under subsection (3)” with “If the court hears oral arguments for any proceedings under subsection (3), those proceedings”.

Amendment of section 29

12. In the MACMA, in section 29 —

(a) in subsection (1)(a) and (b), after “judicial proceedings”, insert “or proceedings before a competent authority”; and

(b) after subsection (1), insert —

“(1A) A request mentioned in subsection (1)(a) may specify that the property must not be realised in Singapore for the enforcement and satisfaction of the foreign confiscation order.”.

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Amendment of section 31

13. In the MACMA, in section 31 —

(a) in subsection (1), replace paragraph (a) with —

“(a) any order made or judgment given by a court or other competent authority of a prescribed foreign country —

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(i) purporting to bear the seal of that court or competent authority; or

(ii) purporting to be signed by —

(A) a person in his or her capacity as a judge, magistrate or officer of the court; or

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(B) an officer of the competent authority,

is deemed without further proof to have been duly sealed, or signed by that person, as the case may be; and”;

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(b) in subsection (1)(b), after “court”, insert “or other competent authority”; and

(c) replace subsection (2) with —

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“(2) A document is duly authenticated for the purposes of subsection (1)(b) if it purports to be certified —

(a) by a person in his or her capacity as a judge, magistrate or officer of the court of that country;

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- (b) by an officer of the competent authority of that country; or
- (c) by or on behalf of the appropriate authority of that country.”.

5 **Amendment of section 32**

14. In the MACMA, in section 32 —

(a) in subsection (1), after paragraph (a), insert —

“(aa) proceedings before a competent authority have been instituted and have not been concluded, or that proceedings before a competent authority are to be instituted, in that country;”;

(b) in subsection (1)(d), after “judicial proceedings”, insert “, or any proceedings before a competent authority,”;

(c) in subsection (1)(e), after “by a court”, insert “or other competent authority”; and

(d) in subsection (2), replace “in a court in” with “before a court or other competent authority of”.

Amendment of section 41

15. In the MACMA, in section 41(3)(a), after “must”, insert “, unless prohibited by any provision of this Act,”.

Amendment of section 42

16. In the MACMA, in section 42(2)(b)(ii), replace “official or public seal of that country or of a Minister of State, or of a department or official of the government,” with “official seal or public seal, or stamped with an official stamp, of that country, or of a Minister, a department or an official of the government,”.

Amendment of Third Schedule

17. In the MACMA, in the Third Schedule —

- (a) in paragraph 1(1), delete “, unless the context otherwise requires”;
- (b) in paragraph 1(1), delete the definition of “defendant”; 5
- (c) in paragraph 1(1), delete the definition of “property”;
- (d) in paragraph 1(1), in the definition of “realisable property”, replace “realisable” with “subject”;
- (e) in paragraph 1, delete sub-paragraphs (4) and (5);
- (f) in the following provisions, after “judicial proceedings”, 10
insert “or proceedings before a competent authority”:
 - Paragraph 4(1)(a)
 - Paragraph 6(1)(a), (2) and (3)
 - Paragraph 7(6)
 - Paragraph 8(8) 15
 - Paragraph 17(1), (2)(a), (3), (4) and (6)(b);
- (g) in the following provisions, replace “realisable property”
wherever it appears with “subject property”:
 - Paragraph 7(1), (2)(a) and (b), (7)(a) and (9)
 - Paragraph 8(2) 20
 - Paragraph 10(4)(b) and (6)
 - Paragraph 14(2);
- (h) in the following provisions, replace “realisable property”
wherever it appears with “any subject property”:
 - Paragraph 8(1) and (4)(a) and (b) 25
 - Paragraph 10(3), (4)(a), (5) and (7)
 - Paragraph 12(3)
 - Paragraph 13(1)

Paragraph 14(1)

Paragraph 15

Paragraph 16(1);

(i) in paragraph 8, after sub-paragraph (4), insert —

5 “(4A) Sub-paragraph (4) does not apply to a subject property for the time being in the hands of the Public Trustee or a receiver pursuant to paragraph 12A.”;

(j) in paragraph 12(4), replace “realisable property mentioned in sub-paragraph (a) of the definition of “realisable property” ” with “subject property mentioned in paragraph (a) of the definition of “subject property” ”;

(k) after paragraph 12, insert —

“Recovery of property not to be realised

12A.—(1) Where —

15 (a) a request for assistance by an appropriate authority of a prescribed foreign country under section 29(1)(a) specifies that the subject property in question must not be realised in Singapore for the enforcement and satisfaction of a foreign confiscation order;

20 (b) the foreign confiscation order has been registered in the General Division of the High Court under section 30;

25 (c) the Attorney-General reasonably believes that it is appropriate and practicable to give possession of the subject property to a person specified in the foreign confiscation order; and

30 (d) the Attorney-General applies to the General Division of the High Court for possession of the subject property to be given to a person specified in the foreign confiscation order,

the General Division of the High Court may, on the application of the Attorney-General, exercise the powers conferred by sub-paragraphs (2) and (3).

35 (2) The General Division of the High Court may appoint the Public Trustee or any person as receiver —

(a) to take possession of the subject property;

- (b) to manage the subject property in accordance with the directions of the General Division of the High Court; and
- (c) to give possession of the subject property to the person specified in the foreign confiscation order, 5
subject to any exceptions and conditions that the General Division of the High Court may specify.
- (3) The General Division of the High Court may order any person having possession of the subject property to give possession of it to the Public Trustee or any receiver. 10
- (4) The General Division of the High Court is not to exercise the powers conferred by sub-paragraphs (2) and (3) unless —
- (a) a reasonable opportunity has been given to all persons holding an interest in the property to make representations to the General Division of the High Court; and 15
- (b) the General Division of the High Court is satisfied that the interests of creditors in Singapore are adequately protected.”;
- (l) in paragraph 13(1)(a), delete “and” at the end; 20
- (m) in paragraph 13(1)(b), replace the comma at the end with “; and”;
- (n) in paragraph 13(1), after sub-paragraph (b), insert —
“(c) any property for the time being in the hands of the Public Trustee or a receiver pursuant to paragraph 12A,”; 25
- (o) in paragraph 13(2), after “paragraphs 7 to 11”, insert “and 12A”;
- (p) in paragraph 14, in the paragraph heading, replace “**realisable property**” with “**subject property**”; 30
- (q) in paragraph 14(1)(a), delete “and” at the end;
- (r) in paragraph 14(1)(b), replace the comma at the end with “; and”;
- (s) in paragraph 14(1), after sub-paragraph (b), insert —

“(c) any property for the time being in the hands of the Public Trustee or a receiver pursuant to paragraph 12A.”;

(t) in paragraph 14(2), after “paragraphs 7 to 11”, insert “and 12A”;

(u) in paragraph 15, replace “or 10” with “, 10 or 12A”; and

(v) in paragraph 16(1)(d), replace “or 10” with “, 10 or 12A”.

PART 3

AMENDMENT OF TRUSTEES ACT 1967

New Division heading of Part 7

18. In the Trustees Act 1967 (called in this Part the Trustees Act), before section 83, insert —

“Division 1 — Preliminary”.

Amendment of section 83

19. In the Trustees Act, in section 83 —

(a) in subsection (1), before the definition of “effective controller”, insert —

““authorised officer” means an authorised officer appointed under section 84B(1);

“Commissioner” means the Commissioner of Trust Enforcement appointed under section 84A(1);”;

(b) in subsection (1), in the definition of “FATF Recommendations”, replace “and the financing of terrorism” with “, terrorism financing and financing of proliferation of weapons of mass destruction”;

(c) in subsection (1), after the definition of “FATF Recommendations”, insert —

““financial institution” has the meaning given by section 2 of the Financial Services and Markets Act 2022;”;

(d) in subsection (1), after the definition of “protector”, insert —

““public officer” includes any officer of a statutory board;”;

(e) in subsection (1), in the definition of “relevant trust party”, replace paragraph (e) with — 5

“(e) if any person benefitting from the trust has not been determined — a class of possible beneficiaries under the trust;

(f) a person who — 10

(i) is a member of a class of possible beneficiaries under the trust; and

(ii) is reasonably expected to benefit from the trust, whether or not because — 15

(A) the person is referred to as a potential beneficiary by the settlor of the trust in a document relating to the trust such as a letter of wishes; or 20

(B) the class of possible beneficiaries has narrowed for any reason;

(g) a person who has any power (whether alone, jointly with any other person or with the consent of any other person) to — 25

(i) dispose of, advance, lend, invest (other than in the capacity of an investment adviser or manager) any property that is subject to the trust; 30

(ii) distribute, or approve or direct the distribution of, any property that is subject to the trust to a beneficiary;

- (iii) vary or terminate the trust;
- (iv) add or remove a person as a beneficiary or a member of a class of possible beneficiaries;
- (v) appoint or remove a trustee; or
- (vi) direct, withhold consent to or veto the exercise of a power mentioned in sub-paragraph (i), (ii), (iii), (iv) or (v).”;

(f) in subsection (2), replace “section 84A” with “section 84Q”; and

(g) after subsection (2), insert —

“(3) A reference to this Part includes a reference to any regulations made under section 84Q.”.

Amendment of section 84

20. In the Trustees Act, in section 84(2), replace “section 84A” with “section 84Q”.

New sections 84A and 84B and Divisions 2, 3 and 4

21. In the Trustees Act, after section 84, insert —

“Appointment of Commissioner of Trust Enforcement

84A.—(1) The Minister may, for the purposes of this Part, appoint a public officer to be the Commissioner of Trust Enforcement.

(2) The Commissioner may exercise all the powers and perform the duties and functions of the Commissioner under this Part, subject to any general or special directions of the Minister.

(3) An appointment under subsection (1) must be published in the *Gazette*.

Appointment of authorised officers

84B.—(1) The Commissioner may appoint any of the following persons to be an authorised officer for the purposes of this Part:

- (a) a public officer; 5
- (b) an auxiliary police officer appointed under Part 9 of the Police Force Act 2004;
- (c) a public accountant registered or deemed to be registered under the Accountants Act 2004;
- (d) any individual suitably qualified and trained to be an authorised officer. 10

(2) The Commissioner may delegate the exercise of any powers conferred or duties imposed on the Commissioner under this Part to an authorised officer, subject to any condition or limitation that the Commissioner may specify. 15

(3) Subsection (2) does not apply to the following:

- (a) the power of appointment under subsection (1);
- (b) the power of delegation under subsection (2).

(4) An authorised officer is taken to be a public servant for the purposes of the Penal Code 1871 when exercising any power conferred or performing any duty delegated to the authorised officer by the Commissioner. 20

Division 2 — Investigation and enforcement

Subdivision (1) — General

Purpose of powers

84C. The Commissioner may exercise all or any of the powers in this Division to investigate any offence under this Part. 25

Protection from liability for compliance with requirements

5 **84D.** No liability is incurred by a person or an officer, employee or agent of the person for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with a requirement imposed under this Division.

Subdivision (2) — Examination of persons

Requirement to appear for examination

10 **84E.**—(1) The Commissioner may, by written notice, require any person within the limits of Singapore, who appears to be acquainted with the facts or circumstances of the matter, to attend before the Commissioner for examination and to answer questions.

15 (2) If any person fails to comply with a written notice issued to the person under subsection (1), the Commissioner may report the failure to a Magistrate, who may then issue a warrant ordering that person to comply with the written notice.

Power to examine person

20 **84F.**—(1) The Commissioner may examine orally any person who appears to be acquainted with the facts or circumstances of the matter —

25 (a) whether before or after that person or anyone else is charged with an offence in connection with the matter; and

(b) whether or not that person is to be called as a witness in any inquiry, trial or other proceedings in connection with the matter.

30 (2) Any person examined under this section is bound to state truly what the person knows of the facts and circumstances of the matter, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

- (3) A statement made by the person must —
- (a) be reduced to writing;
 - (b) be read over to the person;
 - (c) if the person does not understand English — be interpreted in a language that the person understands; and
 - (d) after correction (if necessary) — be signed by the person.

Subdivision (3) — Powers to obtain information

Power to require production of information, etc. 10

84G.—(1) This section applies if the Commissioner reasonably believes that a person has any information or any document or material in the person's possession, custody or control that is relevant for the purpose of investigating any offence under this Part. 15

(2) Subject to subsections (3) and (4), the Commissioner may do any one or more of the following:

- (a) require the person to, without charge, produce the information, document or material, in the form and manner and at the time, specified by the Commissioner; 20
- (b) require the person to, without charge, give the Commissioner access to the information, document or material, in the form and manner and at the time, specified by the Commissioner; 25
- (c) inspect and make copies of, or take extracts from, any document or material mentioned in paragraph (a) or (b);
- (d) if the information, document or material is recorded in an electronic form, or contained in or available to a computer or other equipment — require the person to — 30

(i) provide assistance in gaining access to any computer or other equipment in which the information, document or material is stored; and

5 (ii) provide the information, document or material, or a copy of the information, document or material in the form or format specified by the Commissioner.

10 (3) Subsection (4) applies if the power in subsection (2) relates to —

(a) the production of customer information by a financial institution; or

(b) access to customer information kept by a financial institution.

15 (4) Despite section 84B(2), the power in subsection (2) —

(a) may only be exercised by the Commissioner personally or an authorised officer who is a public officer; and

20 (b) must not be exercised by an authorised officer who is not a public officer.

(5) In this section, “customer information” —

25 (a) in relation to a bank or merchant bank — has the meaning given by section 40A of the Banking Act 1970; and a reference in that section to a bank is a reference to a bank or merchant bank;

(b) in relation to a licensed trust company — means information protected under section 49 of the Trust Companies Act 2005; and

- (c) in relation to any other financial institution — means any information relating to, or any particulars of, an account of a customer of the financial institution or funds of a customer under management by the financial institution, but does not include any information that is not referable to any named person or group of named persons. 5

Issuance of warrant to enter premises, etc.

84H.—(1) A court may, on the application of the Commissioner, issue a warrant, if the court is satisfied that — 10

- (a) there are reasonable grounds for suspecting that there are, on any premises —
- (i) any information, document or material the production of which has been required under section 84G but which has not been produced as required; or 15
 - (ii) any computer or other equipment in which is stored in electronic form any information, document or material mentioned in sub-paragraph (i); or 20
- (b) there are reasonable grounds for suspecting that —
- (i) there are, on any premises —
 - (A) any information, document or material which the Commissioner has power under section 84G to require to be produced; or 25
 - (B) any computer or other equipment in which is stored in electronic form any information, document or material mentioned in sub-paragraph (A); and
 - (ii) if the information, document or material were 30
 - required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

(2) A warrant issued under subsection (1) authorises the Commissioner, and any other persons that the Commissioner may require to assist him or her, to do all or any of the following:

5 (a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

 (b) to search any person on the premises, if there are reasonable grounds to suspect that the person has in his or her possession the information, document, material, computer or equipment;

10 (c) to search the premises and to break open and search anything, whether a fixture or not, in the premises and take copies of, or extracts from, the information, document or material;

15 (d) to access, inspect and check the operation of a computer or other equipment on the premises specified in the warrant, if there are reasonable grounds to suspect that —

20 (i) any information, document or material mentioned in subsection (1)(a)(i) or (b)(i)(A) is or has been contained in or available to the computer or equipment; or

 (ii) the computer or equipment is a computer or equipment mentioned in subsection (1)(a)(ii) or (b)(i)(B);

25 (e) to use the computer or equipment mentioned in paragraph (d), or cause any such computer or equipment to be used —

30 (i) to search any information, document or material that appears to be any information, document or material mentioned in subsection (1)(a)(i) or (b)(i)(A), that is contained in or available to such computer or equipment; and

 (ii) to make a copy of any such information, document or material;

- (f) to prevent any other person from gaining access to, or using, any computer or other equipment mentioned in paragraph (d) (including by changing any username, password or other authentication information required to gain access to the computer or equipment); 5
- (g) to order any person —
- (i) to stop accessing or using or to not access or use any computer or other equipment mentioned in paragraph (d); or 10
 - (ii) to access or use any such computer or other equipment only under such conditions as the Commissioner or any person assisting the Commissioner may specify;
- (h) to require any person on the premises to provide an explanation of the information, document or material or to state, to the best of the person's knowledge and belief, where it may be found; 15
- (i) to require the information, document or material which is stored in electronic form and accessible from the premises to be produced in a form which — 20
- (i) can be taken away; and
 - (ii) is visible and legible;
- (j) to photograph or film, or make any record or sketch of, any part of the premises, or any thing at the place. 25
- (3) A warrant issued under subsection (1) —
- (a) must —
 - (i) indicate the subject matter and state the offence being investigated; and
 - (ii) provide information on the nature of an offence under section 84L, and the nature of an offence under section 84M; and 30

(b) continues in force until the end of the period of one month starting on the day on which the warrant is issued.

5 (4) In this section, “court” means the General Division of the High Court, a District Court or a Magistrate’s Court.

(5) In this section and section 84I, “premises” includes any structure, building, aircraft, vehicle or vessel.

Procedure for execution of warrant

10 **84I.**—(1) The powers conferred under a warrant issued under section 84H(1) in relation to any premises must not be exercised except upon production of the warrant.

15 (2) If a warrant is issued under section 84H(1) and there is no one at the premises when the Commissioner proposes to execute the warrant, the Commissioner must, before executing the warrant —

(a) take such steps as are reasonable in all the circumstances to inform the occupier of the premises of the intended entry into the premises; and

20 (b) subject to subsection (3), give the occupier or the occupier’s legal or other representative a reasonable opportunity to be present when the warrant is executed.

25 (3) If the Commissioner is unable to inform the occupier of the premises of the intended entry into the premises, the Commissioner must, when executing the warrant, leave a copy of the warrant in a prominent place on the premises.

(4) Any person entering any premises by virtue of the warrant may take with him or her any item that the person considers necessary.

30 (5) A woman may be searched pursuant to the warrant only by another woman and with strict regard to decency.

(6) On leaving any premises specified in a warrant issued under section 84H(1), the Commissioner must, if the premises

are unoccupied or if the occupier of the premises is temporarily absent, leave the premises as effectively secured as the Commissioner found the premises.

(7) In this section, “occupier”, in relation to any premises specified in a warrant issued under section 84H(1), means a person whom the Commissioner reasonably believes to be the occupier of those premises.

Power to seize property, etc., in certain circumstances

84J.—(1) The Commissioner may seize any property —

- (a) in respect of which a contravention of this Part is suspected to have been committed;
- (b) that is suspected to have been used or intended to be used in a contravention of this Part; or
- (c) that is suspected to constitute evidence of a contravention of this Part.

(2) Subsection (1) does not apply to any property held or suspected to be held in an account or a safe deposit box in a financial institution.

(3) The occupier or person in charge of a place from which property is to be seized under subsection (1), or a representative of the occupier or person in charge, may attend during the seizure.

(4) The Commissioner must prepare and sign a list of any property seized under subsection (1), recording the location from which each item of property is seized.

(5) A signed copy of the list must be given to the occupier or person in charge of the place from which property was seized, or a representative of the occupier or person in charge.

(6) Instead of seizing any property under subsection (1), the Commissioner may, by written order —

- (a) prohibit any person from dealing with the property; and

- (b) require any person to affix the order or a copy of the order on or near the property.

Power of court over seized property, etc.

5 **84K.** Sections 370, 371 and 372 of the Criminal Procedure Code 2010 are to apply, with the necessary modifications, when the Commissioner seizes property or prohibits any dealing with property under section 84J.

Division 3 — General offences

Producing false information to Commissioner, etc.

10 **84L.** A person required to produce or give access to any information, document or material to the Commissioner or an authorised officer under Division 2, who —

- 15 (a) produces or give access to the Commissioner or authorised officer to any information, document or material that the person knows or has reason to believe is materially false or misleading;
- 20 (b) omits to provide or give access to any information to the Commissioner or authorised officer for the purposes of this Act, knowing or having reason to believe that the omission will create a materially false or misleading impression;
- 25 (c) intentionally alters, suppresses or destroys any information, document or material that the person has been required to produce or give access to; or
- (d) in producing or giving access to any information, document or material so required, makes any statement which the person knows or ought reasonably to know is, or is reckless as to whether it is, false or misleading in a material particular,

30 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 2 years or to both.

Obstruction of investigation, etc.

84M.—(1) A person who, without reasonable excuse —

- (a) refuses or fails to produce or give access to any information, document or material required of the person by the Commissioner or an authorised officer under section 84G; 5
- (b) fails to comply with any written notice issued to the person under section 84E(1);
- (c) knowingly obstructs or hinders, or attempts to obstruct or hinder — 10
 - (i) a person from complying with anything required of the person by the Commissioner or an authorised officer under this Part;
 - (ii) the Commissioner or an authorised officer from exercising any of the Commissioner’s or authorised officer’s powers under this Part; or 15
 - (iii) the Commissioner or an authorised officer, or any other persons assisting the Commissioner or authorised officer, in executing a warrant issued under section 84H(1); or 20
- (d) disposes of or deals with any property contrary to the Commissioner’s or an authorised officer’s order under section 84J(6),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 2 years or to both. 25

(2) It is not a defence to a charge under subsection (1) that the person is subject to a fiduciary duty or any other duty under common law, any contract or any rule of professional conduct, that prevents the person from complying with a requirement under Division 2 or restricts the person in such compliance. 30

*Division 4 — Miscellaneous***Protection from personal liability for Commissioner, etc.**

5 **84N.** No liability shall lie personally against the Commissioner or an authorised officer who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Part.

Codes of practice, guidelines and standards of performance

10 **84O.**—(1) The Commissioner may issue, approve, amend or revoke one or more codes of practice, guidelines or standards of performance for all or any of the following purposes:

15 (a) to provide guidance to trustees of relevant trusts in relation to the operation or administration of any provision of this Part;

 (b) to set out best practices —

 (i) for trustees of relevant trusts with respect to measures for the prevention of money laundering, terrorism financing and financing of proliferation of weapons of mass destruction; and

 (ii) for giving effect to the relevant FATF Recommendations.

25 (2) If any provision in any code of practice, guideline or standard of performance is inconsistent with this Part, that provision, to the extent of the inconsistency, does not have effect.

 (3) Where a code of practice, guideline or standard of performance is issued, approved, amended or revoked by the Commissioner under subsection (1), the Commissioner must —

30 (a) publish a notice of the issue, approval, amendment or revocation (as the case may be) in a manner that will secure adequate publicity for the issue, approval, amendment or revocation;

(b) specify in the notice the date of the issue, approval, amendment or revocation, as the case may be; and

(c) ensure that, so long as the code of practice, guideline or standard of performance remains in force, copies of that code, guideline or standard, and of all amendments to it, are available free of charge to any trustee of a relevant trust to whom that code, guideline or standard applies.

5

(4) No code of practice, guideline or standard of performance, or amendment or revocation, has any effect until the notice relating to it is published in accordance with subsection (3).

10

(5) Any code of practice, guideline or standard of performance has no legislative effect.

(6) Any failure by a trustee of a relevant trust to comply with any code of practice, guideline or standard of performance applicable to the trustee does not of itself render the trustee liable to criminal proceedings, but the failure may, in any proceedings (criminal or otherwise), be relied on by any party to those proceedings as tending to establish or negate any liability which is in question in those proceedings.

15

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Composition of offences under this Part

84P.—(1) The Commissioner may compound any offence under this Part that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding one half of the amount of the maximum fine for the offence.

25

(2) On payment of the sum of money, no further proceedings are to be taken against that person in respect of the offence.

(3) All sums collected under this section must be paid into the Consolidated Fund.”

30

Renumbering and amendment of section 84A

22.—(1) In the Trustees Act, renumber the existing section 84A as section 84Q.

(2) In the Trustees Act, in section 84Q (as renumbered by subsection (1)) —

(a) in subsection (2), after paragraph (b), insert —

“(ba) provide that a trustee of a relevant trust must —

(i) retain any document relating to the trust, as may be prescribed; and

(ii) keep and maintain up-to-date records of any information relating to the administration of the trust or other relevant information relating to the trust, as may be prescribed;”;

(b) in subsection (2)(d), after “paragraphs (a), (b)”, insert “, (ba)”; and

(c) in subsection (2)(g), replace “\$1,000” with “\$25,000”.

Amendment of section 85

23. In the Trustees Act, in section 85(1), after “persons”, insert “(other than the Commissioner or an authorised officer within the meanings given by section 83)”.

New sections 85A and 85B

24. In the Trustees Act, after section 85, insert —

“Offences by corporations

85A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, employee or agent had that state of mind,
is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

- (i) an officer of the corporation; or
- (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or
- (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters 5 and 5A of the Penal Code 1871; or
- (b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

5 (6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act 2005;

10 “officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

15 (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

20 (b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

25 **85B.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

30 (a) an officer, partner, employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, partner, employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person — 5

(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or 10
- (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and 15

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or 20
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence, 25

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly. 30

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, 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, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

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

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.”.

PART 4

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS AND
SAVING AND TRANSITIONAL PROVISION**Consequential amendment to Banking Act 1970**

25. In the Banking Act 1970, in the Third Schedule, in Part 3, in the definition of “specified written law”, replace “and the Prevention of Corruption Act 1960” with “, the Prevention of Corruption Act 1960 and the Trustees Act 1967”. 5

Consequential amendment to Trust Companies Act 2005

26. In the Trust Companies Act 2005, in the Third Schedule, in Part 3, in the definition of “specified written law”, replace “and the Prevention of Corruption Act 1960” with “, the Prevention of Corruption Act 1960 and the Trustees Act 1967”. 10

Saving and transitional provision

27.—(1) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient. 15

(2) In this section, “Minister” means — 20

- (a) for any saving or transitional provision consequent on the enactment of any provision in Part 1, the Minister charged with the responsibility for the Extradition Act 1968;
- (b) for any saving or transitional provision consequent on the enactment of any provision in Part 2, the Minister charged with the responsibility for the Mutual Assistance in Criminal Matters Act 2000; 25
- (c) for any saving or transitional provision consequent on the enactment of any provision in Part 3, the Minister charged with the responsibility for the Trustees Act 1967; 30

- (d) for any saving or transitional provision consequent on the enactment of section 25, the Minister charged with the responsibility for the Banking Act 1970; and
- 5 (e) for any saving or transitional provision consequent on the enactment of section 26, the Minister charged with the responsibility for the Trust Companies Act 2005.

EXPLANATORY STATEMENT

This Bill seeks to amend the Extradition Act 1968, the Mutual Assistance in Criminal Matters Act 2000 and the Trustees Act 1967 to give effect to certain recommendations of the Financial Action Task Force and to enhance the legal framework for international assistance in criminal matters and extradition.

The Bill also makes consequential amendments to certain other Acts.

Clause 1 relates to the short title and commencement.

PART 1

AMENDMENT OF EXTRADITION ACT 1968

Part 1 (clauses 2 and 3) amends the Extradition Act 1968.

Clause 2 amends the definition of “foreign State” in section 2(1) to clarify that Singapore may make an extradition request to any territory (including any territory specified in the Third Schedule).

Clause 3 amends section 43(2) to clarify when an overseas document is deemed to be duly authenticated.

PART 2

AMENDMENT OF MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT 2000

Part 2 (clauses 4 to 17) amends the Mutual Assistance in Criminal Matters Act 2000 (the MACMA).

Clause 4 amends section 2(1) —

- (a) to delete the words “, unless the context otherwise requires” which are redundant by virtue of section 2(2A) of the Interpretation Act 1965;

- (b) to insert the definition of “competent authority” and expand the definition of “instrumentality forfeiture order” to include an order made by a competent authority of a foreign country for the forfeiture, and the destruction or other disposal, of any drug or substance or any property in respect of which an offence against the law of the country was intended to be committed or used;
- (c) to insert the definitions of “defendant” and “property” (These amendments are made because those 2 definitions are used in the main body of the MACMA and should be read with clause 17 which deletes those definitions in the Third Schedule); and
- (d) to replace the definition of “foreign confiscation order” with a new definition that is expanded to include an order made by a competent authority of a foreign country for the recovery, forfeiture or confiscation of any property.

Clause 4 also amends section 2 to provide when judicial proceedings, etc., are concluded and when a foreign confiscation order is subject to appeal. This amendment is made because it is relevant to provisions in the main body of the MACMA and should be read with clause 17 which deletes those provisions in the Third Schedule.

Clause 5 amends section 4 to clarify that the MACMA does not prevent the provision of international assistance to a foreign country that relates to the recording and transmission of a person’s statement for the purposes of any criminal matter in the foreign country, with the person’s consent.

Clause 6 amends section 16 to clarify that certain assistance may also be provided to a prescribed foreign country in relation to a criminal matter involving a foreign offence that is not within the scope of the order made under section 17 for that country if the appropriate authority of that country gives an undertaking that the country will comply with a future request by Singapore to that country for similar assistance.

Clause 7 amends section 19(2) to include proceedings before a competent authority.

Clause 8 amends section 20 —

- (a) to clarify that a refusal of a request by a foreign country is by the Attorney-General;
- (b) to provide that a request for assistance under Part 3 must be refused if the request relates to the investigation, prosecution or punishment of a person for an offence where the person has been convicted, acquitted or pardoned and all rights of appeal against the conviction, acquittal or pardon have expired or are exhausted; and

- (c) to provide that a request for assistance to obtain any thing must be refused if the appropriate authority fails to undertake to, upon conclusion of the criminal matter, return, dispose of or otherwise handle the thing in accordance with the Attorney-General's request, if the Attorney-General so requests.

Clause 9 amends section 21 to clarify that the Attorney-General is empowered to transmit the certified evidence to the appropriate authority that requested that evidence and also to make some drafting improvements.

Clause 10 inserts a new section 21A to provide for a request that a statement be taken from a person (specified in the request) in Singapore for the purposes of any criminal investigation in the foreign country. The new section 21A will address the apparent gap in the law because section 21 only applies to the taking of evidence where there are criminal proceedings pending in a court in the foreign country.

Clause 11 amends section 22 —

- (a) to provide that proceedings in which a production order is made is to be conducted in the absence of the person to whom the criminal proceedings in the foreign country relates, etc., unless the court orders otherwise; and
- (b) to clarify that section 22(8) only applies if the court hears oral arguments for those proceedings.

Clause 12 amends section 29 to provide that a request for the enforcement and satisfaction of a foreign confiscation order may specify that the property must not be realised in Singapore.

Clauses 13 and 14 make consequential amendments to sections 31 and 32, respectively, resulting from the expansion of the definition of "foreign confiscation order" in section 2(1) to include orders made by a competent authority of a foreign country.

Clause 15 amends section 41(3) to clarify that the Attorney-General must comply with the Minister's instruction in relation to a Singapore request or foreign request, unless prohibited by any provision of the MACMA.

Clause 16 amends section 42(2) to clarify when a document that is obtained, provided, or produced pursuant to a request made under the MACMA, is deemed to be duly authenticated.

Clause 17 amends the Third Schedule —

- (a) to delete certain definitions and provisions which will be inserted into section 2;
- (b) to change all references to "realisable property" to "subject property" (this follows from the amendment to section 29 providing that a

request for the enforcement of a foreign confiscation order may specify that the property must not be realised in Singapore);

- (c) to insert a new paragraph 12A relating to the procedure for the recovery of property that must not be realised in Singapore; and
- (d) to make consequential amendments resulting from the expansion of the definition of “foreign confiscation order” in section 2(1) to include orders made by a competent authority of a foreign country.

PART 3

AMENDMENT OF TRUSTEES ACT 1967

Part 3 (clauses 18 to 24) amends the Trustees Act 1967.

Clause 18 inserts a new Division 1 heading for Part 7 (comprising sections 83 and 84 and new sections 84A and 84B).

Clause 19 amends section 83 to amend certain definitions and insert new definitions, that are necessary to support the other amendments to Part 7.

Clause 20 replaces the reference to section 84A with section 84Q because clause 22 renumbers section 84A as section 84Q.

Clause 21 inserts the new sections 84A and 84B and the new Divisions 2, 3 and 4.

The new section 84A relates to the appointment of the Commissioner of Trust Enforcement (the Commissioner).

The new section 84B relates to the appointment of authorised officers.

The new Division 2 (comprising sections 84C to 84K) contains provisions relating to investigation and enforcement.

The new section 84C provides that the Commissioner may exercise all or any of the powers in Division 2 to investigate any offence under Part 7 (which includes any regulations made under the renumbered section 84Q).

The new section 84D provides that no liability is incurred by a person or an officer, employee or agent of the person for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with a requirement imposed under Division 2.

The new sections 84E and 84F relate to the power to require a person to appear for examination and the power to examine a person.

The new section 84G contains a power to require a person to produce information, etc. However, if the power relates to the production of customer information by a financial institution or access to customer information kept by a financial institution, the power may only be exercised by the Commissioner

personally or an authorised officer who is a public officer and must not be exercised by an authorised officer who is not a public officer.

The new sections 84H and 84I relate to the issuance of a warrant by a court to enter premises, etc., and the procedure for the execution of the warrant.

The new sections 84J and 84K relate to the power of the Commissioner to seize property and the power of the court over property seized by the Commissioner. The power to seize property does not apply to any property held or suspected to be held in an account or a safe deposit box in a financial institution.

The new Division 3 (comprising sections 84L and 84M) contains offences relating to the Commissioner's investigative powers.

The new section 84L makes it an offence for a person to produce or give access to any information, document or material to the Commissioner or an authorised officer that the person knows or has reason to believe is materially false or misleading, etc.

The new section 84M(1) makes it an offence for a person —

- (a) to refuse or fail to produce or give access to any information, document or material required of the person by the Commissioner or an authorised officer under the new section 84G;
- (b) to fail to comply with a notice requiring the person to attend before the Commissioner or an authorised officer for examination and to answer questions;
- (c) to knowingly obstruct or hinder, or attempt to obstruct or hinder the Commissioner, an authorised officer or certain other persons under certain circumstances; or
- (d) to dispose of or deal with any property contrary to the Commissioner's or an authorised officer's order under the new section 84J.

It is not a defence to a charge under section 84M(1) that the person is subject to a fiduciary duty or any other duty under common law, any contract or any rule of professional conduct, that prevents the person from complying with a requirement under Division 2 or restricts the person in such compliance.

The new Division 4 (comprising sections 84N, 84O and 84P and the renumbered section 84Q) contains miscellaneous provisions.

The new section 84N protects the Commissioner and an authorised officer from liability if he or she acts in good faith and with reasonable care in the execution or purported execution of Part 7.

The new section 84O empowers the Commissioner to issue, approve, amend or revoke codes of practice, guidelines or standards of performance to provide

guidance to or set out best practices for, trustees of relevant trusts in relation to Part 7, etc.

The new section 84P provides for the composition of offences under Part 7.

Clause 22 renumbers the existing section 84A as section 84Q and amends the section —

- (a) to allow the Minister to make regulations to provide that a trustee of a relevant trust must retain any prescribed document relating to the trust and keep and maintain up-to-date records of any information relating to the administration of the trust or other relevant information relating to the trust, as may be prescribed; and
- (b) to increase the maximum fine for an offence under regulations made under the section, from \$1,000 to \$25,000.

Clause 23 amends section 85(1) to exclude the Commissioner and an authorised officer within the meanings given by section 83 from the scope of the indemnity provided by section 85. This should be read with the new section 84N.

Clause 24 inserts new sections 85A and 85B. These are standard provisions providing for the liability of offenders that are corporations or unincorporated associations or partnerships and their officers, etc.

PART 4

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS AND SAVING AND TRANSITIONAL PROVISION

Part 4 (clauses 25, 26 and 27) relates to consequential amendments to the Banking Act 1970 and the Trust Companies Act 2005 (relating to the amendments to the Trustees Act 1967) and the saving and transitional provision.

Clauses 25 and 26 amend the definitions of “specified written law” in Part 3 of the Third Schedule to the Banking Act 1970 and Part 3 of the Third Schedule to the Trust Companies Act 2005, to insert a reference to the Trustees Act 1967. These amendments ensure that a bank may disclose customer information (and a licensed trust company may disclose information regarding a protected party, etc.) to a public officer who is duly authorised under the Trustees Act 1967 to carry out an investigation under that Act.

Clause 27 empowers the appropriate Minister to make regulations to prescribe provisions of a saving or transitional nature consequent on the enactment of any provision of the Bill as that Minister may consider necessary or expedient. The appropriate Minister has power to do so only within 2 years after the date of commencement of the provision.

EXPENDITURE OF PUBLIC MONEY

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