

Jurong Town Corporation (Amendment) Bill

Bill No. 28/2017.

Read the first time on 1 August 2017.

A BILL

intituled

An Act to amend the Jurong Town Corporation Act (Chapter 150 of the 1998 Revised Edition), 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 Jurong Town Corporation (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Jurong Town Corporation Act (called in this Act the principal Act) is amended by deleting the definitions of “authorised occupier” and “commercial property”.

Amendment of section 10

10 3. The principal Act is amended by renumbering section 10 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

15 “(2) Every member, officer and employee of the Corporation is, in relation to his administration, collection and enforcement of payment of composition sums under section 67, taken to be a public officer for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to each of these persons even though he is not or was not in the employment of the Government.”.

20 New section 27

4. The principal Act is amended by inserting, immediately after section 26, the following section:

“Power to make rules

25 27.—(1) Despite section 32, the Corporation may, with the approval of the Minister, make rules prescribing anything that is to be prescribed and generally for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Corporation may, with the approval of the Minister, make rules for or in respect of all or any of the following matters:

- (a) regulating the use and enjoyment of any common property or open space in any land vested in the Corporation, including — 5
 - (i) restricting or prohibiting behaviour or activities on the common property or open space;
 - (ii) restricting or prohibiting parking of vehicles on any common property or open space which is not a parking place within the meaning of the Parking Places Act (Cap. 214); 10
 - (iii) waste disposal;
 - (iv) safety or security measures; and
 - (v) power for the Corporation to move, store or dispose of, or authorise the disposal of, objects or things left on such common property or open space and the passing of title to any objects or things on such disposal; 15
- (b) prescribing that any act or omission in contravention of any rule shall be an offence punishable by a fine not exceeding \$5,000; 20
- (c) prescribing the penalty (such penalty, if unpaid, to constitute a debt due to the Corporation and be recoverable as such) to be paid by the Corporation's lessee or licensee for late payment of any moneys due to the Corporation under any lease, tenancy or licence. 25

(3) The Corporation or a duly authorised employee of the Corporation who reasonably believes that any person has committed an offence under any rules made under this section may require the person to furnish evidence of the person's identity, and the person must furnish such evidence of that identity as so required. 30

(4) Any person who —

(a) without reasonable excuse, refuses to furnish any information required of the person by the Corporation or duly authorised employee of the Corporation under subsection (3); or

(b) wilfully misstates such information,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(5) For the purposes of subsection (4), a person is not excused from disclosing any information required under subsection (3) on the ground that to do so might tend to incriminate the person or expose the person to a penalty.

(6) All rules made under this Act are to be presented to Parliament as soon as possible after publication in the *Gazette*.”.

Repeal and re-enactment of Part IV

5. Part IV of the principal Act is repealed and the following Part substituted therefor:

“PART IV

TRANSFER OF HDB INDUSTRIAL UNDERTAKINGS

Interpretation of this Part

36. In this Part, unless the context otherwise requires —

“asset”, in relation to the transferor, means property of any kind (whether tangible or intangible, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether present, future or contingent) of the transferor on the eve of the transfer date and includes, without limitation —

(a) a legal or equitable interest in real or personal property;

(b) a chose in action;

(c) a security;

- (d) money;
- (e) intellectual property;
- (f) infrastructure, plant and equipment;
- (g) records and information (including data) in any form;
- (h) a right;

5

“excluded undertaking” means such assets and liabilities of the transferor which are determined under section 41(1) as assets and liabilities that must not be transferred to the Corporation under this Part;

10

“Industrial Properties Group” means the department of the transferor known as the Industrial Properties Group;

“liability”, in relation to the transferor, means any liability, duty or obligation (whether actual or contingent, liquidated or unliquidated, and whether owed alone or jointly or jointly and severally with any other person) of the transferor on the eve of the transfer date;

15

“records”, in relation to the transferor, means registers, papers, documents, minutes, receipts, books of account and other record, however compiled, recorded or stored, of the transferor existing on the eve of the transfer date;

20

“right”, in relation to the transferor, means any right, power, privilege or immunity of the transferor on the eve of the transfer date;

“transfer date” means a date specified by the Minister by order in the *Gazette*;

25

“transferor” means the Housing and Development Board constituted under the Housing and Development Act (Cap. 129);

“transferring employee” means an employee of the transferor who, on the eve of the transfer date, is deployed in the Industrial Properties Group.

30

Transfer of undertaking to Corporation

37.—(1) On the transfer date, all assets and liabilities of the transferor that relate to the functions of the Industrial Properties Group, except the excluded undertaking, are transferred to the Corporation.

(2) When any assets or liabilities are transferred under subsection (1), the following provisions have effect:

- (a) the assets of the transferor that are the subject of the transfer vest in the Corporation by virtue of this section and without the need for any further conveyance, transfer, assignment or assurance;
- (b) the liabilities of the transferor that are the subject of the transfer become by virtue of this section the liabilities of the Corporation;
- (c) all legal or other proceedings relating to those assets or liabilities that are started before the transfer date by or against the transferor and pending immediately before that date are taken to be proceedings pending by or against the Corporation;
- (d) any legal or other proceedings relating to those assets or liabilities which could have been started immediately before the transfer date by or against the transferor may be started by or against the Corporation;
- (e) a judgment or order of a court or other tribunal obtained before the transfer date by or against the transferor relating to those assets or liabilities may be enforced by or against the Corporation;
- (f) any document relating to legal or other proceedings relating to those assets or liabilities that has been served on or by the transferor before the transfer date is taken, where appropriate, to have been served on or by the Corporation;

- (g) any act, matter or thing done or omitted to be done before the transfer date in relation to those assets or liabilities by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Corporation; 5
- (h) a reference in any written law, in any instrument made under any Act, in any contract, agreement, arrangement or undertaking, or in any document of any kind to the transferor, as regards anything falling to be done or capable of being done on or after the transfer date and to the extent to which the reference relates to those assets or liabilities, is taken to be, or includes, a reference to the Corporation; 10
- (i) a reference in any written law, in any instrument made under any Act, in any contract, agreement, arrangement or undertaking, or in any document of any kind to an officer of the transferor, as regards anything falling to be done or capable of being done on or after the transfer date and to the extent to which the reference relates to those assets or liabilities, is taken to be, or includes, a reference to an officer of the Corporation whom the Corporation appoints for that purpose. 15 20
- (3) In particular — 25
- (a) all security deposits deposited with the transferor in relation to any assets or liabilities transferred under subsection (1) and not forfeited before the transfer date; and
- (b) the benefits of all indemnities, guarantees or warranties given to the transferor in relation to any assets or liabilities transferred under subsection (1) and not discharged before that date, 30
- are, without further assurance, transferred and deemed deposited with or given to the Corporation. 35

(4) The operation of this section does not —

- (a) constitute a breach of, or default under, an Act or other law or otherwise a civil wrong or criminal wrong;
- 5 (b) constitute a breach of duty of confidence (whether arising by contract, in equity, by custom, or in any other way);
- (c) constitute a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities or the disclosure of any information;
- 10 (d) terminate an agreement or fulfil any condition that allows a person to terminate any agreement or obligation, or give rise to any right or remedy in respect of any agreement or obligation;
- 15 (e) cause any contract or instrument to be void or otherwise unenforceable;
- (f) frustrate any contract or release any surety or other obligor wholly or in part from any obligation;
- 20 (g) release a surety or other obligee wholly or in part from an obligation; or
- (h) constitute an event of breach of, or default under, any contract or other instrument.

(5) No attornment to the Corporation by a lessee from the transferor is required.

25 **Transferring employees to Corporation**

38.—(1) On the transfer date, every transferring employee —

- (a) stops being an employee of the transferor; and
- 30 (b) is each transferred to the service, and becomes an employee, of the Corporation on terms no less favourable than those enjoyed by the employee on the eve of the transfer date.

(2) The transfer of a transferring employee to the Corporation —

- (a) does not interrupt continuity of service;
- (b) does not constitute a retrenchment or redundancy; and
- (c) does not entitle any employee so transferred to any payment or other benefit merely because he stops being employed by the transferor.

5

(3) A certificate purporting to be signed by the Minister certifying that an individual named in the certificate was, with effect from the transfer date, employed by virtue of this section by the Corporation, is admissible in evidence in any proceedings as evidence of the matters stated in it.

10

(4) Nothing in this section prevents —

- (a) any of the terms and conditions of employment of an individual transferred under this section from being altered by or under any law, award or agreement with effect from any time after the transfer date; and
- (b) an individual transferred under this section from resigning from the Corporation at any time after the transfer date, in accordance with the terms and conditions of his employment then applicable.

15

20

(5) To avoid doubt, section 18A of the Employment Act (Cap. 91) does not apply to the transfer under this Part of any employee to the Corporation.

General preservation of employment terms

25

39.—(1) The service with the Corporation of an employee transferred under section 38 (called in this section a transferred employee) must be regarded for all purposes as having been continuous with the service of the employee with the transferor immediately before the transfer date.

30

(2) On the transfer date —

(a) a transferred employee retains all accrued rights as if employment with the Corporation were a continuation of employment with the transferor;

5 (b) the liabilities of the transferor relating to the transferred employee's accrued rights to annual, sick, maternity or other leave and superannuation become the liabilities of the Corporation; and

10 (c) a reference in the contract of employment that had effect in relation to the transferred employee immediately before the transfer date is taken to be, or includes, a reference to the Corporation.

(3) For any conduct whilst a transferred employee was employed by the transferor which would have rendered the employee liable to be reprimanded, reduced in rank, retired, dismissed or punished by the transferor, the Corporation may —

15 (a) start any disciplinary proceedings against that employee;

20 (b) carry on and complete any disciplinary proceedings started by the transferor against the transferred employee if those proceedings are pending on the eve of the transfer date; and

25 (c) reprimand, reduce in rank, retire, dismiss or otherwise punish a transferred employee, as if the employee were not transferred.

(4) Where, on the eve of the transfer date, any matter about the conduct of a transferred employee whilst employed by the transferor —

30 (a) was in the course of being heard or investigated by a committee of the transferor acting under due authority; or

(b) had been heard or investigated by a committee of the transferor acting under due authority but no order, ruling or direction had been made,

that committee must complete the hearing or investigation and make such order, ruling or direction as it could have made under the authority vested in it before that date, and that order, ruling or direction is to be regarded as an order, ruling or direction of the Corporation. 5

(5) Until such time as conditions of employment are drawn up by the Corporation for the transferred employees, every transferred employee is to be regarded as being employed by the Corporation on the same conditions of employment applicable to the employee on the eve of the transfer date as the transferor. 10

(6) Any condition of employment relating to the length of service with the Corporation must recognise the length of service of the employees so transferred while in the employment of the transferor (including any previous service of the employees taken to be service with the transferor) to be service with the Corporation. 15

Transfer of records

40. From the transfer date, every record, or part of any record, of the transferor that relates to — 20

- (a) any assets or liabilities transferred to the Corporation under section 37; or
- (b) any transferring employee,

becomes the record of the Corporation.

Confirmation of undertaking transferred

 25

41.—(1) For the purposes of determining the undertaking to be transferred to the Corporation under this Part, the Minister and the Minister charged with the responsibility for the transferor must, before the transfer date, after consulting the transferor and the Corporation, jointly specify the assets and liabilities of the transferor that relate to the functions of the Industrial Properties Group which must not be transferred to the Corporation under this Part. 30

(2) If any dispute arises —

(a) as to whether an asset or a liability, or an employee or a record is transferred under section 37, 38 or 40; or

5 (b) as to whether any, or any part of any, contract or document relates to an asset or a liability, or an employee or a record, transferred under section 37, 38 or 40,

10 the Minister for Finance may determine the matter and is to provide the concerned parties with written notice of that determination.

(3) The determination of the Minister for Finance under subsection (2) is final and binding on the transferor and the Corporation.”.

Repeal of section 64

15 **6.** Section 64 of the principal Act is repealed.

Consequential amendments to other Acts

20 **7.**—(1) Section 33(6) of the Housing and Development Act (Cap. 129, 2004 Ed.) is amended by inserting, immediately after the words “Part IV of the Jurong Town Corporation Act (Cap. 150)”, the words “as in force before the date of commencement of section 5 of the Jurong Town Corporation (Amendment) Act 2017”.

(2) Section 33 of the Residential Property Act (Cap. 274, 2009 Ed.) is amended —

25 (a) by deleting the words “or Part IV of the Jurong Town Corporation Act (Cap. 150)” in paragraph (g); and

(b) by deleting the words “or the Jurong Town Corporation, as the case may be,” in paragraph (g)(i).

(3) The Town Councils Act (Cap. 329A, 2000 Ed.) is amended —

30 (a) by deleting the definition of “industrial property” in section 2(1);

(b) by inserting the word “and” at the end of section 2(2)(a);

- (c) by deleting paragraph (b) of section 2(2); and
- (d) by deleting the words “and industrial property” in section 19(2)(a)(i).

EXPLANATORY STATEMENT

This Bill seeks to amend the Jurong Town Corporation Act (Cap. 150) —

- (a) to transfer to the Jurong Town Corporation (called the JTC) the undertaking of the Housing and Development Board (called the HDB) relating to industrial properties;
- (b) to repeal the obsolete provisions in Part IV concerning the sale and management of residential properties by the JTC; and
- (c) to introduce amendments of a housekeeping nature so as to improve efficiency and accountability in certain enforcement processes.

The Bill also makes consequential amendments to the Housing and Development Act (Cap. 129), the Residential Property Act (Cap. 274) and the Town Councils Act (Cap. 329A).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by removing the definitions of “authorised occupier” and “commercial property” as a consequence of the repeal of Part IV.

Clause 3 amends section 10, to provide that the members, officers and employees of the JTC who will be involved in the administration, collection and enforcement of payment of any composition sum collected under section 67 will be treated as public officers for the purposes of the Financial Procedure Act (Cap. 109). Those moneys are public moneys because they must be accounted for in the Consolidated Fund. Section 20 of the Financial Procedure Act (on disciplinary punishment for loss of public moneys, etc.) is to apply to these members, officers and employees of the JTC even though they are not or were not in the employment of the Government.

Clause 4 introduces a new section 27 conferring power on the JTC to make rules, with the approval of the Minister, regulating the use, management and control of the common property and open space of industrial properties it is statutorily charged to manage. This will ensure that the JTC has similar enforcement powers as the HDB has today with respect to HDB’s properties transferred to the JTC under the new Part IV introduced by clause 5.

For example, the power of the JTC under the former section 53(1)(h) to make rules imposing penalties for late payment of sums owing to the JTC is also

expanded to apply to arrears of any sum payable to the JTC by any lessee or licensee under a lease, tenancy or licence. This is similar to the powers of the HDB under section 27(2) in the Housing and Development Act.

Clause 5 repeals Part IV which contains obsolete provisions for the sale and management of residential properties by the JTC.

Part IV is replaced by a new Part containing new sections 36 to 41 that transfers to the JTC the undertaking of the HDB relating to industrial properties.

The new section 36 contains definitions used for the purposes of the new Part IV. In particular, it describes the various undertakings to be transferred to the JTC by the new Part.

The new section 37 provides for the transfer, on the transfer date (which is to be specified by the Minister by an order in the *Gazette*), to the JTC of all assets and liabilities of the HDB relating to the department called the Industrial Properties Group except the excluded undertaking.

The “excluded undertaking” comprises such assets and liabilities of the HDB which are determined jointly under the new section 41(1) by the Ministers charged with the responsibility for the JTC and the HDB, respectively, as assets and liabilities that must not be transferred to the JTC under the new Part IV.

The new section 37 also contains a series of saving and transitional provisions, the general purpose of which is to put the JTC in the same legal position as the HDB from which assets or liabilities are transferred.

The new section 37 declares that the transfer does not constitute a breach of, or default under, an Act or other law, does not constitute a breach of, or default under, a contract, agreement, understanding or undertaking, does not constitute a breach of a duty of confidence, does not constitute a civil or criminal wrong, does not terminate an agreement or obligation, or fulfil any condition that allows a person to terminate an agreement or obligation, or give rise to any other right or remedy, and does not release a surety or other obligee wholly or in part from an obligation.

For example, all security deposits deposited with the HDB before the transfer date and not forfeited before that date, and the benefits of all indemnities (like insurance policies), guarantees and warranties given to the HDB before the transfer date, in relation to any assets or liabilities transferred under the new section 37 are, without further assurance, transferred and deemed deposited with or given to the JTC.

The new section 38 provides for the transfer, on the transfer date, of HDB employees deployed in the department called the Industrial Properties Group, to the employment of the JTC.

The new section 39 declares that the transfer of employees does not affect remuneration, leave rights or continuity of service and does not constitute a

retrenchment or redundancy. It further declares that such a transfer is not to give rise to any right to damages or compensation.

The new section 40 provides for the transfer of records from the HDB to the JTC where the records relate to any assets or liabilities transferred to the JTC under the new section 37, or any transferring employee.

The new section 41(2) provides for a notice issued by the Minister for Finance to be evidence as to whether an asset or a liability is or is not a transferred asset or liability.

Clause 6 repeals section 64, which requires the consent of the Public Prosecutor before proceedings may be instituted against any person for any offence under the Act.

Clause 7 makes consequential amendments to the Housing and Development Act, the Residential Property Act and the Town Councils Act due to the replacement of Part IV by clause 5, and the resulting transfer by the HDB of its industrial properties to the JTC.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
