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Chemical Weapons (Prohibition) (Amendment) Bill

Bill No. 50/2018.

Read the first time on 19 November 2018.

A BILL

intituled

An Act to amend the Chemical Weapons (Prohibition) Act
(Chapter 37B of the 2001 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 is the Chemical Weapons (Prohibition) (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of long title

2. The long title to the Chemical Weapons (Prohibition) Act (called in this Act the principal Act) is amended by inserting, immediately after “1993”, the words “, and to regulate the transport of certain chemicals within Singapore”.

10 Amendment of section 2

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

(a) by deleting the words “section 6(3)” in paragraph (c) of the definition of “authorised officer” and substituting the words “section 6(2)”; and

15 (b) by inserting, immediately after the definition of “transfer”, the following definition:

““transport”, in relation to a prescribed scheduled chemical, means —

20 (a) the carriage of that chemical in any vehicle by road; or

(b) the consigning of that chemical for carriage in any vehicle by road,

25 and includes all operations incidental to that carriage or consigning, such as loading, unloading and storage of the chemical;”.

Amendment of section 4

4. Section 4(1) of the principal Act is amended by inserting, immediately after the word “Convention”, the words “, and to regulate the transport of certain chemicals within Singapore”.

Amendment of section 9

5. Section 9(8) of the principal Act is amended —

- (a) by inserting the word “and” at the end of paragraph (c);
- (b) by deleting the word “; and” at the end of paragraph (d) and substituting a full-stop; and
- (c) by deleting paragraph (e).

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New sections 9A and 9B

6. The principal Act is amended by inserting, immediately after section 9, the following sections:

“Approval to transport within Singapore prescribed scheduled chemicals

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9A.—(1) Subject to subsections (7) and (8), a person must not transport within Singapore for a permitted purpose a prescribed scheduled chemical exceeding a prescribed quantity except —

- (a) with the prior approval of the Director-General; and
- (b) in accordance with such conditions as may be prescribed.

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(2) Unless waived by the Director-General in any particular case, an application for the grant or renewal of an approval mentioned in subsection (1)(a) must —

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- (a) be in the manner or form as the Director-General may require;
- (b) be accompanied by the prescribed fee; and
- (c) contain all information and documents prescribed and any other information that the Director-General may require to assess the particular application.

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(3) The Director-General may —

- (a) grant or renew an approval mentioned in subsection (1)(a) for such period as the Director-General may specify; and

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(b) in respect of the grant or renewal of the approval, impose such conditions as the Director-General considers necessary that are not inconsistent with the provisions of this Act and any prescribed condition in subsection (1)(b).

(4) An approval mentioned in subsection (1)(a) may only be granted or renewed —

(a) in the case of a prescribed scheduled chemical that is also a Schedule 1 chemical, to a person who is granted a licence under section 9(1);

(b) in the case of a prescribed scheduled chemical that is also a Schedule 2 chemical, to a person who is granted —

(i) a licence under section 9(2)(a); or

(ii) a licence to import or export the Schedule 2 chemical under section 9(4); or

(c) in the case of a prescribed scheduled chemical that is also a Schedule 3 chemical, to a person who is granted —

(i) a licence under section 9(2)(b); or

(ii) a licence to import or export the Schedule 3 chemical under section 9(4).

(5) If —

(a) a person transports within Singapore for a permitted purpose a prescribed scheduled chemical;

(b) the prescribed scheduled chemical so transported exceeds a prescribed quantity for that chemical in subsection (1);

(c) the person knows or ought reasonably to have known that the matter or thing so transported is a prescribed scheduled chemical and the quantity of the matter or thing transported; and

(d) the person knows or ought reasonably to have known that —

(i) there is no approval mentioned in subsection (1)(a) for that transport; or

(ii) the transport is not in accordance with any prescribed condition in subsection (1)(b), 5

the person shall be guilty of an offence.

(6) Any person who is guilty of an offence under subsection (5) shall be liable on conviction —

(a) where the offence involves a prescribed Schedule 1 chemical, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or to both; or 10

(b) in any other case, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both. 15

(7) Subsections (1) and (5) do not apply —

(a) if the requirement for an approval mentioned in subsection (1)(a) is waived under subsection (8); or

(b) to the extent a prescribed condition in subsection (1)(b) is waived under subsection (8). 20

(8) The Director-General may waive —

(a) the requirement for an approval mentioned in subsection (1)(a) for a prescribed scheduled chemical — 25

(i) if the person —

(A) is granted a licence under section 9(1), (2) or (4);

(B) is recognised as a designated laboratory by the Organisation for the Prohibition of Chemical Weapons established under the 30

Convention (called in this Act the Organisation under the Convention); and

(C) transports the prescribed scheduled chemical to fulfil an obligation required by the Organisation under the Convention;

(ii) if the person —

(A) is granted a licence under section 9(1), (2) or (4);

(B) has applied to be recognised or to renew its recognition as a designated laboratory by the Organisation under the Convention; and

(C) transports the prescribed scheduled chemical as part of any proficiency testing required by the Organisation under the Convention in respect of such an application; or

(iii) in any other particular case as the Director-General thinks fit; or

(b) in any particular case, all or any of the prescribed conditions in subsection (1)(b).

(9) Any person who is aggrieved by the refusal of the Director-General to grant or renew an approval to the person, may appeal in writing against the refusal to the Minister within 30 days after being notified of the refusal, and the Minister's decision is final.

Cancellation or suspension of approval

9B.—(1) The Director-General may cancel an approval mentioned in section 9A(1)(a), if the person to whom the approval is granted or renewed —

(a) made or caused or allowed to be made, or produced, in or in connection with any application for the grant

or renewal of the approval, any false or fraudulent declaration or representation;

- (b) has, in the opinion of the Director-General, contravened any condition of the approval;
- (c) has been convicted of an offence under this Act after the approval was granted or renewed; 5
- (d) has its licence granted under section 9(1), (2) or (4) (as the case may be) cancelled;
- (e) in the case of a corporation or firm, is wound up or goes into liquidation or is otherwise dissolved, as the case may be; or 10
- (f) applies to have the approval cancelled.

(2) The Director-General may suspend the approval for such period as the Director-General thinks fit —

- (a) if, instead of cancelling the approval under subsection (1)(a) to (d), the Director-General considers it desirable to do so; or 15
- (b) if the person has its licence granted under section 9(1), (2) or (4) (as the case may be) suspended. 20

(3) Any person who is aggrieved by the cancellation of an approval under subsection (1)(a) to (e) or suspension of an approval under subsection (2), may appeal in writing against the cancellation or suspension to the Minister within 30 days after being notified of the cancellation or suspension, and the Minister's decision is final." 25

Amendment of section 11

7. Section 11(1) of the principal Act is amended by inserting, immediately after paragraph (a), the following paragraph:

- “(aa) the Director-General has knowledge of any prescribed scheduled chemical that is transported within Singapore exceeding the prescribed quantity mentioned in section 9A;” 30

New section 12A

8. The principal Act is amended by inserting, immediately after section 12, the following section:

5 **“Records of transport within Singapore of prescribed scheduled chemicals**

12A. Any person who transports within Singapore a prescribed scheduled chemical exceeding a prescribed quantity mentioned in section 9A pursuant to —

(a) an approval mentioned in section 9A(1)(a); or

10 (b) a waiver granted under section 9A(8),

must keep such records containing such information and documents in relation to that transport and for such period as are required by regulations made under section 33.”.

Amendment of section 13

15 9. Section 13 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) This section applies where the Director-General considers that a person is capable of giving information that is relevant to —

20 (a) a declaration required to be given by Singapore to the Organisation under the Convention; or

(b) the transport within Singapore of any prescribed scheduled chemical in contravention of this Act.”.

Amendment of section 15

25 10. Section 15 of the principal Act is amended —

(a) by deleting the words “and 21” in subsections (2) and (3) and substituting in each case the words “, 21 and 23A”;

(b) by inserting, immediately after the words “any premises” in subsection (2)(a), the words “or in relation to any vehicle”;

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(c) by deleting the word “or” at the end of paragraph (b) of subsection (2), and by inserting immediately thereafter the following paragraph:

“(ba) determining whether the conditions applicable to an approval mentioned in section 9A(1)(a) have been or are being complied with; or”; 5

(d) by inserting, immediately after paragraph (c) of subsection (3), the following paragraphs:

“(ca) seal the samples of a matter or thing taken in relation to the transport of any prescribed scheduled chemical (whether or not from a vehicle) and require the owner of the matter or thing to — 10

(i) send the samples to an analyst for analysis; and 15

(ii) bear any costs and expenses arising from the analysis;

(cb) require the owner or analyst to submit the results of the analysis mentioned in paragraph (ca)(i) to the Director-General;”; 20

(e) by inserting, immediately after the word “premises” in subsection (3)(g), the words “or found within the vehicle”;

(f) by inserting, immediately after paragraph (i) of subsection (3), the following paragraph: 25

“(ia) take photographs or videos of any matter or thing in relation to the transport of any prescribed scheduled chemical; or”;

(g) by deleting “(i)” in subsection (3)(j) and substituting “(ia)”;

(h) by inserting, immediately after subsection (4), the following subsection: 30

“*(5)* A power mentioned in subsection *(3)(a), (b), (c), (ca)(i), (d)* or *(ia)*, if exercised in relation to a vehicle, may only be exercised in a manner that the person authorised to exercise it believes, on reasonable grounds, to be in accordance with safety procedures applicable in respect of the vehicle.”.

Amendment of section 18

11. Section 18(2) of the principal Act is amended by inserting, immediately after the words “inspection power”, the words “, in respect of any premises,”.

New section 23A

12. The principal Act is amended by inserting, immediately after section 23, the following section:

“Powers of national inspectors if vehicle has been used, etc., in contravention of section 9A

23A.—(1) Where a national inspector has reason to suspect that any vehicle has been used, or is being used, in contravention of section 9A, the national inspector may —

- (a)* stop and board the vehicle and exercise any inspection power for a compliance purpose;
- (b)* seize any matter or thing from the vehicle that the national inspector reasonably believes to be the subject matter of, or to be connected with the commission of, an offence under that section; and
- (c)* arrest any individual whom the national inspector has reason to believe has committed any offence under that section, if the individual’s name and address are unknown to the national inspector and —
 - (i)* the individual refuses to give the individual’s name and address when required by the national inspector; or
 - (ii)* there is reason to doubt the accuracy of the name or address, if given.

(2) Where a national inspector seizes any matter or thing under subsection (1)(b), the national inspector must give to the owner of the matter or thing a written inventory of all matters or things so seized.

(3) Any matter or thing seized under subsection (1)(b) may be kept or stored at such premises as the Director-General may determine, and the owner must bear all reasonable costs and expenses arising from the keeping or storage of the matter or thing.”.

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Amendment of section 33

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13. Section 33 of the principal Act is amended —

(a) by deleting the words “pursuant to” in subsection (1) and substituting the word “under”;

(b) by inserting, immediately after paragraph (d) of subsection (2), the following paragraph:

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“(da) to prescribe the fees for an application under, or for any other purpose of, this Act;”; and

(c) by deleting the words “and prescribing fines, not exceeding \$10,000, that may, on conviction, be imposed in respect of any such offence” in subsection (2)(e) and substituting the words “and that on conviction of any such offence, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both may be imposed”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Chemical Weapons (Prohibition) Act (Cap. 37B) (the Act) to regulate the transport within Singapore by road of certain prescribed scheduled chemicals.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title of the Act to include regulating the transport of certain chemicals within Singapore.

Clause 3 amends section 2(1) to add a new definition of “transport” in relation to a prescribed scheduled chemical. The clause also makes an editorial change to paragraph (c) of the definition of “authorised officer”.

Clause 4 amends section 4(1) to expand the purpose of the Act to include regulating the transport of certain chemicals within Singapore.

Clause 5 amends section 9(8) by deleting the Minister’s power to make regulations to prescribe fees payable for an application for a licence and an application for the extension or renewal of a licence under that section. The power to make regulations prescribing fees is moved to section 33.

Clause 6 inserts new sections 9A and 9B. The new section 9A prohibits a person from transporting within Singapore for a permitted purpose a prescribed scheduled chemical exceeding a prescribed quantity except with the prior approval of the Director-General of Customs (the Director-General) and in accordance with prescribed conditions. An application for the grant or renewal of an approval must —

- (a) be in the manner or form as the Director-General may require;
- (b) be accompanied by the prescribed fee; and
- (c) contain all information and documents prescribed and any other information that the Director-General may require to assess the particular application.

The Director-General may grant or renew an approval for such period as the Director-General may specify, and impose such conditions in respect of the grant or renewal of the approval as the Director-General considers necessary that are not inconsistent with the provisions of the Act and any prescribed condition. An approval can only be granted or renewed —

- (a) in the case of the transport of a Schedule 1 chemical, to a person granted a licence under section 9(1);
- (b) in the case of the transport of a Schedule 2 chemical, to a person granted a licence under section 9(2)(a) or a licence to import or export the Schedule 2 chemical under section 9(4); and
- (c) in the case of the transport of a Schedule 3 chemical, to a person granted a licence under section 9(2)(b) or a licence to import or export the Schedule 3 chemical under section 9(4).

It is an offence if —

- (a) a person transports within Singapore for a permitted purpose a prescribed scheduled chemical;
- (b) the prescribed scheduled chemical so transported exceeds a prescribed quantity for that chemical;

- (c) the person knows or ought reasonably to have known that the matter or thing so transported is a prescribed scheduled chemical and the quantity of the matter or thing transported; and
- (d) the person knows or ought reasonably to have known that —
 - (i) there is no approval for that transport; or
 - (ii) the transport is not in accordance with any prescribed condition.

The maximum penalties on conviction are as follows:

- (a) where the offence involves a prescribed Schedule 1 chemical, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years or both;
- (b) in any other case, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years or both.

The new section 9A(1) and (5) does not apply if the requirement for an approval, or to the extent a prescribed condition, is waived. The Director-General may waive the requirement for an approval for a prescribed scheduled chemical —

- (a) if a person —
 - (i) is granted a licence under section 9(1), (2) or (4);
 - (ii) is recognised as a designated laboratory by the Organisation for the Prohibition of Chemical Weapons established under the Convention (called in the Act the Organisation under the Convention); and
 - (iii) transports the prescribed scheduled chemical to fulfil an obligation required by the Organisation under the Convention;
- (b) if a person —
 - (i) is granted a licence under section 9(1), (2) or (4);
 - (ii) has applied to be recognised or to renew its recognition as a designated laboratory by the Organisation under the Convention; and
 - (iii) transports the prescribed scheduled chemical as part of any proficiency testing required by the Organisation under the Convention in respect of such an application; or
- (c) in any other particular case as the Director-General thinks fit.

The Director-General may also waive, in any particular case, all or any of the prescribed conditions.

Finally, the new section 9A permits any person who is aggrieved by the refusal of the Director-General to grant or renew an approval to the person to appeal in writing against the refusal to the Minister within 30 days after being notified of the refusal. The Minister's decision on the appeal is final.

The new section 9B empowers the Director-General to cancel an approval if the person to whom the approval is granted or renewed —

- (a) made or caused or allowed to be made, or produced, in or in connection with any application for the grant or renewal of the approval, any false or fraudulent declaration or representation;
- (b) has, in the opinion of the Director-General, contravened any condition of the approval;
- (c) has been convicted of an offence under the Act after the approval was granted or renewed;
- (d) has its licence granted under section 9(1), (2) or (4) (as the case may be) cancelled;
- (e) in the case of a corporation or firm, is wound up or goes into liquidation or is otherwise dissolved, as the case may be; or
- (f) applies to have the approval cancelled.

The new section 9B also empowers the Director-General to suspend the approval for such period as the Director-General thinks fit —

- (a) if, instead of cancelling the approval under subsection (1)(a) to (d), the Director-General considers it desirable to do so; or
- (b) if the person has its licence granted under section 9(1), (2) or (4) (as the case may be) suspended.

Finally, the new section 9B permits any person who is aggrieved by the cancellation of an approval under subsection (1)(a) to (e) or suspension of an approval under subsection (2), to appeal in writing against the cancellation or suspension to the Minister within 30 days after being notified of the cancellation or suspension. The Minister's decision on the appeal is final.

Clause 7 amends section 11(1) to include, as a purpose of Part IV, ensuring that the Director-General has knowledge of any prescribed scheduled chemical that is transported within Singapore exceeding a prescribed quantity.

Clause 8 inserts a new section 12A to require a person who transports within Singapore a prescribed scheduled chemical exceeding a prescribed quantity pursuant to an approval or a waiver to keep such records containing such information and documents in relation to that transport and for such period as are required by regulations.

Clause 9 amends section 13(1) to also apply where the Director-General considers that a person is capable of giving information that is relevant to the transport within Singapore of any prescribed scheduled chemical in contravention of the Act.

Clause 10 amends section 15 to include the new section 23A in relation to a reference under certain provisions of the Act to a compliance purpose or an inspection power. A reference to a compliance purpose under certain provisions of the Act is expanded to include a reference to the purpose of —

- (a) determining whether the provisions of the Act have been or are being complied with in relation to any vehicle; or
- (b) determining whether the conditions applicable to an approval have been or are being complied with.

A reference to an inspection power under certain provisions of the Act is also expanded to include a reference to a power to —

- (a) seal the samples of a matter or thing taken in relation to the transport of any prescribed scheduled chemical (whether or not from a vehicle) and require the owner of the matter or thing to —
 - (i) send the samples to an analyst for analysis; and
 - (ii) bear any costs and expenses arising from the analysis;
- (b) require the owner or analyst to submit the results of such analysis to the Director-General;
- (c) interview any person found within the vehicle; or
- (d) take photographs or videos of any matter or thing in relation to the transport of any prescribed scheduled chemical.

The clause also makes a technical amendment to section 15(3)(j) following the insertion of paragraph (ia) in section 15(3).

Finally, clause 10 also requires a person authorised to exercise a power under subsection (3)(a), (b), (c), (ca)(i), (d) or (ia), if exercised in relation to a vehicle, to exercise it in a manner that the person believes, on reasonable grounds, to be in accordance with safety procedures applicable in respect of the vehicle.

Clause 11 amends section 18(2) such that an inspection power for the purposes of facilitating an inspection referred to in section 17 is only in respect of premises mentioned in section 17. An inspection under section 17 does not extend to the transport of prescribed scheduled chemicals specified in the Act.

Clause 12 inserts a new section 23A where a national inspector has reason to suspect that any vehicle has been used, or is being used, in contravention of the new section 9A. In such a case, the national inspector may —

- (a) stop and board the vehicle and exercise any inspection power for a compliance purpose;
- (b) seize any matter or thing from the vehicle that the national inspector reasonably believes to be the subject matter of, or to be connected with the commission of, an offence under the new section 9A; and
- (c) arrest any individual whom the national inspector has reason to believe has committed any offence under the new section 9A, if the individual's name and address are unknown to the national inspector and —
 - (i) the individual refuses to give the individual's name and address when required by the national inspector; or
 - (ii) there is reason to doubt the accuracy of the name or address, if given.

Clause 12 further requires a national inspector who seizes any matter or thing under the new section 23A(1)(b) to give to the owner of the matter or thing a written inventory of all matters or things so seized. Any such matter or thing seized may be kept or stored at such premises as the Director-General may determine, and the owner must bear all reasonable costs and expenses arising from the keeping or storage of the matter or thing.

Clause 13 makes a technical amendment to section 33(1) following the definition of Organisation under the Convention in the new section 9A. The clause also amends section 33(2) to empower the Minister to prescribe the fees for an application under, or for any other purpose of, the Act. This amendment consolidates the Minister's power to prescribe fees in respect of the Act in a single provision.

Clause 13 also amends section 33(2) to empower regulations to impose a maximum term of 2 years' imprisonment on conviction of any prescribed offences in respect of the contravention of or non-compliance with any regulations made under that section.

EXPENDITURE OF PUBLIC MONEY

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