



THE STATUTES OF THE REPUBLIC OF SINGAPORE

UNDESIRABLE PUBLICATIONS ACT

(CHAPTER 338)

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Undesirable Publications Act

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An Act to prevent the importation, distribution or reproduction of undesirable publications and for purposes connected therewith.

[1st April 1967]

Short title

1. This Act may be cited as the Undesirable Publications Act.

Interpretation

2. In this Act, unless the context otherwise requires —

“authorised officer” means a public officer appointed under section 18(3) by the Minister to be an authorised officer for the purposes of this Act;

“broadcast” has the same meaning as in the Copyright Act (Cap. 63) and “broadcasting” shall have a corresponding meaning;

“Chief Controller” means the Chief Controller appointed under section 18(2);

“circulation”, in relation to any publication, includes the exhibition or supply thereof;

“controller” means a public officer appointed under section 18(1) by the Minister to be a controller;

“electronic transmission” includes facsimile transmission, electronic mail or other similar means of communication but excludes broadcasting;

“exhibit”, in relation to a sound recording, means to play that sound recording but does not include the broadcasting of the sound recording;

“film” has the same meaning as in the Films Act (Cap. 107);

“importer”, in relation to any article, includes any person who, whether as owner, consignee, agent or broker, is in possession of, or is in any way entitled to the custody or control of, the article;

“objectionable” and “obscene” have the meanings given to them by sections 4 and 3, respectively;

“periodical publication” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“place” includes any vehicle, vessel, train or aircraft, whether in a public place or not;

“prohibited publication” means any publication the importation, sale or circulation of which has been prohibited under section 5;

“publication” means any of the following other than a film:

- (a) any book, magazine or periodical, whether in manuscript or final form;
- (b) any sound recording;
- (c) any picture or drawing, whether made by computer-graphics or otherwise howsoever;
- (d) any photograph, photographic negative, photographic plate or photographic slide; or
- (e) any paper, model, sculpture, tape, disc, article or thing —
 - (i) that has printed or impressed upon it any word, statement, sign or representation; or
 - (ii) on which is recorded or stored for immediate or future retrieval any information that, by the use of any computer or other electronic device, is capable of being reproduced or shown as any picture, photograph, word, statement, sign or representation,

and includes a copy of any publication;

“sound recording” means any tape, disc or other recording of sounds from which the sounds may be reproduced but does not include any sound-track of a film;

“supply”, in relation to a publication, includes —

- (a) supply not only in its physical form but also by means of the electronic transmission of the contents of the publication;
- (b) supply by way of hire, exchange or loan; or
- (c) in the case of a publication comprising a tape, disc, article or thing on which is recorded or stored any

information for immediate or future retrieval by the use of any computer or other electronic device, transferring or reproducing or enabling another to transfer or reproduce by electronic transmission the whole or part of the contents of the publication onto another such tape, disc, article or thing for immediate or future retrieval.

[9/98]

Meaning of obscene

3. For the purposes of this Act, a publication is obscene if its effect or (where the publication comprises 2 or more distinct parts or items) the effect of any one of its parts or items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.

[2A
[9/98]

Meaning of objectionable

4.—(1) For the purposes of this Act, a publication is objectionable if, in the opinion of any controller, it or (where the publication comprises 2 or more distinct parts or items) any one of its parts or items describes, depicts, expresses or otherwise deals with —

- (a) matters such as sex, horror, crime, cruelty, violence or the consumption of drugs or other intoxicating substances in such a manner that the availability of the publication is likely to be injurious to the public good; or
- (b) matters of race or religion in such a manner that the availability of the publication is likely to cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups.

[2B
[9/98]

(2) In determining for the purposes of this Act whether or not any publication is objectionable, the following matters shall be considered:

- (a) the extent and degree to which, and the manner in which, the publication —
 - (i) describes, depicts or otherwise deals with acts of torture, the infliction of serious physical harm, sexual conduct or violence or coercion in association with sexual conduct;
 - (ii) exploits the nudity of persons or children or both;
 - (iii) promotes or encourages criminal acts or acts of terrorism;
 - (iv) represents, directly or indirectly, that members of any particular community or group are inherently inferior to other members of the public or of any other community or group;
- (b) the impact of the medium in which the publication is presented;
- (c) the character of the publication, including any merit, value or importance that the publication has in relation to literary, artistic, social, cultural, educational, scientific or other matters;
- (d) the standards of morality, decency and propriety that are generally accepted by reasonable members of the community; and
- (e) the persons, classes of persons or age groups of the persons to whom the publication is intended or is likely to be made available.

[9/98]

(3) The question whether or not a publication is objectionable is a matter for the expert judgment of any person authorised or required by or pursuant to this Act to determine it, and evidence as to or proof of any of the matters or particulars that the person is required to consider in determining that question is not essential to its determination except that if such evidence or proof of such matters or particulars is available, that person shall take that evidence or proof into consideration.

[9/98]

(4) The Chief Controller shall keep and maintain a Register of Objectionable Publications containing all publications which any controller determines to be objectionable.

[9/98]

Power to prohibit importation, sale or circulation of publications

5.—(1) If the Minister is of opinion that the importation, sale or circulation of any publication or series of publications published or printed outside Singapore or within Singapore by any person would be contrary to the public interest, the Minister may, in his discretion, by order published in the Gazette, prohibit the importation, sale or circulation of that particular publication or series of publications or all publications published or printed by that person.

(2) If an order made under subsection (1) specifies by name a publication which is a periodical publication, the order shall, unless a contrary intention is expressed therein, have effect with respect to —

- (a) all past and subsequent issues of such publication; and
- (b) any publication published or printed under any other name if the publishing or printing thereof is in any respect a continuation of, or in substitution for, the publishing or printing of the publication named in the order.

(3) If an order made under subsection (1) prohibits the importation, sale or circulation of all publications published or printed by a specified person, that order shall, unless a contrary intention is expressed therein, have effect not only with respect to all publications published or printed by that person before the date of the order but also with respect to all publications so published or printed on or after that date.

(4) An order made under subsection (1) shall, unless a contrary intention is expressed therein, apply to any translation into any language of the publication specified in the order.

(5) The Minister may at any time revoke, vary or amend any order made under subsection (1).

Offences

6.—(1) Any person who imports, publishes, sells, offers for sale, supplies, offers to supply, exhibits, distributes or reproduces any prohibited publication or any extract therefrom shall be guilty of an offence and shall be liable on conviction for a first offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both, and for a subsequent offence to imprisonment for a term not exceeding 4 years.

[9/98]

(2) Any person who without reasonable excuse has in his possession any prohibited publication or any extract therefrom shall be guilty of an offence and shall be liable on conviction for a first offence to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both, and for a subsequent offence to imprisonment for a term not exceeding 2 years.

[9/98]

(3) In any proceedings against any person for an offence under subsection (2), that person shall be presumed, until the contrary is proved, to have known the contents and the nature of the contents of any publication immediately after such publication came into his possession.

[4]

Delivery of prohibited publication to police station

7.—(1) Any person —

- (a) to whom any prohibited publication or any extract therefrom is sent without his knowledge or privity or is sent in response to a request made by that person before the prohibition of the importation, sale or circulation of such publication came into effect; or
- (b) who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation, sale or circulation comes into effect,

shall forthwith, as soon as the nature of its contents has become known to him, or in the case of a publication or extract therefrom coming into the possession of that person before an order prohibiting

its importation, sale or circulation has been made upon the coming into effect of that order, deliver such publication or extract therefrom to the officer in charge of a police station.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

[5

Power to examine packages

8.—(1) Any —

- (a) officer of a public postal licensee not below the rank of postal superintendent;
- (b) officer of the Customs and Excise Department not below the rank of Assistant Superintendent of Customs and Excise;
- (c) police officer not below the rank of sergeant; and
- (d) other officer authorised in that behalf by the Minister,

may detain, open and examine any package or article which he suspects to contain any prohibited publication or extract therefrom and during such examination may detain any person importing, distributing or posting such package or article, or in whose possession such package or article is found.

[21/73; 12/92]

(2) If any prohibited publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing or posting it, or in whose possession it is found, may forthwith be arrested by such officer and proceeded against for the commission of an offence under section 6 or 7, as the case may be.

Forfeiture

9. A court before which any proceedings are taken under this Act, if satisfied that any document produced in the proceedings is a prohibited publication or an extract therefrom, shall, whether the

alleged offender is convicted or not, order such publication or extract therefrom to be forfeited to the Commissioner of Police, who shall order it to be destroyed or otherwise disposed of in such manner as he thinks fit.

[7]

Issue of search warrant

10.—(1) Whenever it appears to any Magistrate upon information and after such inquiry as he thinks necessary that there is reasonable cause to believe that in any premises or place there is concealed or deposited any prohibited publication or extract therefrom, the Magistrate may, by warrant directed to any police officer, empower that officer to enter such premises or place by force if necessary to search for, seize and detain any such publication.

[21/73]

(2) Whenever it appears to any police officer, not below the rank of sergeant, that there is reasonable cause to believe that in any premises or place there is concealed or deposited any prohibited publication or extract therefrom, and he has good grounds for believing that, by reason of the delay in obtaining a search warrant, the object of the search is likely to be frustrated, the police officer may enter and search such premises or place as if he were empowered to do so by a warrant issued under subsection (1).

[8]

[21/73]

Offences involving obscene publications

11. Any person who —

- (a) makes or reproduces, or makes or reproduces for the purposes of sale, supply, exhibition or distribution to any other person;
- (b) imports or has in his possession for the purposes of sale, supply, exhibition or distribution to any other person; or
- (c) sells, offers for sale, supplies, offers to supply, exhibits or distributes to any other person,

any obscene publication (not being a prohibited publication) knowing or having reasonable cause to believe the publication to be obscene shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

[8A
[9/98]

Offences involving objectionable publications

12. Any person who —

- (a) makes or reproduces, or makes or reproduces for the purposes of sale, supply, exhibition or distribution to any other person;
- (b) imports or has in his possession for the purposes of sale, supply, exhibition or distribution to any other person; or
- (c) sells, offers for sale, supplies, offers to supply, exhibits or distributes to any other person,

any objectionable publication (not being a prohibited publication) knowing or having reasonable cause to believe the publication to be objectionable shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

[8B
[9/98]

Search for and seizure of obscene or objectionable publications

13.—(1) If information is given upon oath to a Magistrate that there is reasonable cause to suspect that there are in any premises or place any obscene or objectionable publications (not being prohibited publications) by means of or in relation to which any offence under section 11 or 12 has been or is about to be committed, or any equipment used or intended to be used for the purpose of exhibiting, making or reproducing those publications, the Magistrate may issue a warrant under his hand by virtue of which any police officer, controller or authorised officer named in the warrant may —

- (a) with such assistance and by such force as is necessary, enter and search the premises or place;
- (b) seize the publications and any equipment used in the exhibition, making or reproduction of those publications; and
- (c) take into custody any person reasonably believed to be in possession of those publications or equipment.

[9/98]

(2) The court before which a person is charged with an offence under section 11 or 12 may, whether he is convicted of the offence or not, order that any publication that appears to the court to be a prohibited publication, an obscene or objectionable publication, and any equipment used or intended to be used for exhibiting, making or reproducing the publications in the possession of the alleged offender or before the court, be destroyed or delivered up to the Minister for disposal in such manner as the Minister may direct.

[9/98]

(3) Where —

- (a) in proceedings brought under section 11 or 12 in connection with the offence no order is made under subsection (2) as to the publication or equipment; or
- (b) no such proceedings are instituted within 3 months of the seizure,

the publication or equipment shall be returned to the person from whom they were seized or, if it is not reasonably practicable to return it to that person, shall be disposed of in accordance with the law regulating the disposal of lost or unclaimed property in the hands of the police.

[8C
[9/98]

Arrest without warrant

14. Any police officer may arrest without warrant any person found or reasonably suspected of committing or attempting to commit or of procuring or abetting any person to commit any offence under this

Act, or reasonably suspected of the unlawful possession of any article liable to forfeiture thereunder.

[9
[21/73]

Examination of articles coming into Singapore

15.—(1) A controller or any authorised officer may detain, open and examine any article coming into Singapore in any manner whatsoever from any place outside Singapore which he has reason to believe contains or consists of an obscene or objectionable publication.

[9/98]

(2) Where, in the course of opening and examining any article under subsection (1), the controller or authorised officer finds any publication that he believes on reasonable grounds to be obscene or objectionable —

- (a) he may detain the article for so long as is necessary to institute proceedings for an offence under this Act; or
- (b) where no such proceedings are instituted within 3 months of the detention, he may return the article to the sender of the article or, if the publication is obscene or objectionable or returning the article is not reasonably practicable, he may, subject to section 20, destroy or cause to be destroyed the article or the contents of the article consisting of any such publication.

[10
[9/98]

Examination of persons entering Singapore, etc.

16.—(1) Any importer and any person entering Singapore shall, if he is required to do so by a controller or any authorised officer —

- (a) declare whether or not he has imported or has in his possession any publication; and
- (b) produce the publication for examination.

[9/98]

(2) A controller or an authorised officer may —

- (a) examine or search any person entering Singapore or any article which an importer has imported or a person entering Singapore has in his possession for the purpose of ascertaining whether the importer or person has imported or has in his possession an obscene or objectionable publication; and
- (b) detain any such publication produced or found upon the examination or search as the controller or authorised officer believes on reasonable grounds to be obscene or objectionable.

[9/98]

(3) Any publication detained under subsection (2)(b) may be detained for so long as it is necessary to institute proceedings for an offence under this Act or, where no such proceedings are instituted within 3 months of the seizure, the controller or authorised officer —

- (a) may return the article or publication to the person from whom it was seized; or
- (b) if the publication is obscene or objectionable, or returning the article or publication is not reasonably practicable, may —
 - (i) subject to section 20, destroy or cause to be destroyed the article or publication; or
 - (ii) order the publication to be exported forthwith from Singapore.

[9/98]

(4) Any person who fails to comply with any requirement made by a controller or an authorised officer under subsection (1) shall be guilty of an offence and shall be liable —

- (a) in the case of a person entering Singapore, to a fine not exceeding \$1,000; or
- (b) in the case of an importer, to a fine not exceeding \$5,000.

[11

[9/98]

Corporate offenders

17. Where an offence under this Act has been committed by a body corporate, a partnership or an unincorporated association of persons, any person who at the time of the commission of the offence was a director, manager, partner, secretary or other similar officer thereof, or was purporting to act in any such capacity, shall also be guilty of that offence unless he proves that —

- (a) the offence was committed without his consent or connivance; and
- (b) he had exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. [12

[9/98]

Appointment of controllers and authorised officers

18.—(1) The Minister may, by notification in the *Gazette*, appoint any public officer to be a controller for the purposes of this Act.

[9/98]

(2) The Minister shall, by notification in the *Gazette*, appoint from among the controllers a Chief Controller who shall exercise general supervision over the other controllers and all authorised officers and carry out such other duties as are assigned to him under this Act.

[9/98]

(3) The Minister may also appoint any other public officer to be an authorised officer to assist any controller or the Chief Controller in the discharge of his duties under this Act.

[9/98]

(4) In the exercise of their powers and in carrying out their duties under this Act, the Chief Controller and all controllers and authorised officers shall be guided by such general or special directions as may, from time to time, be given to them by the Minister.

[13
[9/98]

Bar to legal proceedings

19. No legal proceedings whatsoever shall lie or be instituted or maintained in any court for or on account of any loss of or damage to any article or publication seized, detained, confiscated or destroyed under any provision of this Act, or for or on account of any delay in the delivery or return of the article or publication to the person to whom the article or publication would otherwise have been delivered or returned.

[14
[9/98]

Appeals

20.—(1) Any person aggrieved by the detention of any article or publication under section 15 or 16 may appeal against such detention to the Minister whose decision shall be final and shall not be called in question in any court.

(2) No appeal under subsection (1) shall be allowed unless notice of appeal in writing together with the reasons for the appeal is given to the Minister within 14 days of the date of service of the notification referred to in subsection (3).

[9/98]

(3) A controller or an authorised officer shall notify the addressee or consignee of any article detained under section 15 or the person from whom any publication has been seized and detained under section 16 of his right to appeal under subsection (1).

[9/98]

(4) A notification given by a controller or an authorised officer under subsection (3) may be given personally or may be served by post and the day on which a notification which has been posted would be received in the ordinary course of post shall be deemed to be the date of service of the notification.

(5) Notwithstanding any other provisions of this Act, no article or publication shall be destroyed under section 15 or 16 unless its detention has not been appealed against or an appeal against its detention has been dismissed or abandoned.

[15
[9/98]

Exemptions

21.—(1) Where any publication is a prohibited publication, an obscene or objectionable publication under this Act, any person may apply to the Minister for an exemption from any of the provisions of this Act in respect of that publication.

[9/98]

(2) Every application shall be in the form provided for the purpose by the Chief Controller and shall be accompanied by such fee as the Minister may prescribe by regulations.

[9/98]

(3) On receiving an application under this section in relation to a publication, the Minister, if satisfied that the publication should be made available to a limited class of persons or to a particular person for educational, professional, scientific, artistic or technical reasons, may exempt that class of persons or that person from any such provision of this Act as he may specify in respect of that publication for such period as he thinks fit.

[9/98]

(4) An exemption under this section may be granted absolutely or subject to such conditions as may be specified by the Minister.

[16
[9/98]

LEGISLATIVE HISTORY
UNDESIRABLE PUBLICATIONS ACT
(CHAPTER 338)

This Legislative History is provided for the convenience of users of the Undesirable Publications Act. It is not part of this Act.

1. Act 3 of 1967 — Undesirable Publications Act 1967

Date of First Reading : 27 February 1967
(Bill No. 1/67 published on
1 March 1967)

Date of Second and Third Readings : 13 March 1967

Date of commencement : 1 April 1967

2. 1970 Revised Edition — Undesirable Publications Act (Cap. 107)

Date of operation : 15 April 1971

3. Act 14 of 1969 — Statute Law Revision Act 1969

Date of First Reading : 15 October 1969
(Bill No. 22/69 published on
20 October 1969)

Date of Second and Third Readings : 22 December 1969

Date of commencement : 2 January 1970

4. Act 21 of 1973 — Statutes of the Republic of Singapore (Miscellaneous Amendments) Act 1973

Date of First Reading : 7 March 1973
(Bill No. 16/73 published on
9 March 1973)

Date of Second and Third Readings : 20 March 1973

Date of commencement : 6 April 1973

5. 1985 Revised Edition — Undesirable Publications Act

Date of operation : 30 March 1987

6. Act 12 of 1992 — Telecommunication Authority of Singapore Act 1992
(Consequential amendments made by)

Date of First Reading : 27 February 1992
(Bill No. 16/92 published on
28 February 1992)

Date of Second and Third Readings : 19 March 1992

Date of commencement : 1 April 1992

7. Act 9 of 1998 — Undesirable Publications (Amendment) Act 1998

Date of First Reading : 14 January 1998
(Bill No. 3/98 published on
15 January 1998)

Date of Second and Third Readings : 19 February 1998

Date of commencement : 1 April 1998

8. 1998 Revised Edition — Undesirable Publications Act

Date of operation : 15 December 1998