

ADMINISTRATION OF JUSTICE (PROTECTION) ACT 2016

(No. 19 of 2016)

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An Act to state and consolidate the law of contempt of court for the protection of the administration of justice, to define the powers of certain courts in punishing contempt of court and to regulate their procedure in relation thereto; 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:

PART 1
PRELIMINARY

Short title and commencement

1. This Act is the Administration of Justice (Protection) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Interpretation

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

“court” means —

- (a) the Supreme Court;
- (b) any State Court;
- (c) any Family Court; or
- (d) any Youth Court;

“Employment Claims Tribunal” means an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321);

“judge” means —

- (a) in the case of the Supreme Court, a Judge, a Judge of Appeal and a Registrar as defined in the Supreme Court of Judicature Act (Cap. 322);
- (b) in the case of a State Court, a judicial officer as defined in the State Courts Act and a Coroner as defined in the Coroners Act (Cap. 63A);
- (c) in the case of a Family Court or a Youth Court, a judicial officer as defined in the Family Justice Act 2014 (Act 27 of 2014);
- (d) in the case of the Small Claims Tribunals, a tribunal magistrate or the Registrar as defined in section 2(1) of the Small Claims Tribunals Act (Cap. 308); or

[Act 33 of 2018 wef 01/11/2019]

(e) in the case of an Employment Claims Tribunal, a tribunal magistrate as defined in the Employment Claims Act 2016;

“publish” means to disseminate, distribute, exhibit, provide or communicate by oral, visual, written, electronic or other means (for example, by way of newspaper, radio, television or through the use of the Internet, subscription TV or other online communications system) to the public at large or a member of the public, and includes cause to be published, and “publication” is to be construed accordingly;

“Small Claims Tribunal” means a Small Claims Tribunal constituted under section 4 of the State Courts Act;

“State Court” means a State Court constituted under section 4 of the State Courts Act.

(2) In this Act —

(a) a court proceeding is pending from the time that it commences to the time that it is finally decided, struck out or is discontinued or deemed to be discontinued;

(b) a court proceeding commences —

(i) in the case of any proceeding against a person in respect of any offence (other than an appellate, revision or reference proceeding referred to in sub-paragraphs (iii) and (iv)), from the earliest of the following events:

(A) the issue of a notice to attend court, summons to appear before a court to answer a charge of the offence, or any other process to compel the attendance of the person to answer a charge of the offence;

(B) the issue of a warrant for the arrest of the person for the offence;

(C) the arrest of the person for the offence;

(ii) in the case of any proceeding other than a proceeding against a person in respect of any offence (but not an

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- appellate or revision proceeding referred to in sub-paragraph (iii)), from the time the originating process, application for leave or other application (including an application made before an originating process is filed) is filed in court;
- (iii) in the case of proceedings on appeal from or for revision of a decision of a court in any proceedings, from —
- (A) the time a notice of appeal is lodged or filed or an application for leave to appeal is made; or
- (B) the time an application for revision is made, as the case may be;
- (iv) in the case of a reference of a question of law of public interest under section 397 of the Criminal Procedure Code (Cap. 68), from the time an application for leave or a reference by the Public Prosecutor is made; and
- (v) in the case of an inquiry under the Coroners Act, from the time a Coroner is informed of a death under section 11 of that Act;
- (c) a court proceeding is finally decided —
- (i) in a case where there is a pending appeal, reference or revision, when the appeal, reference or revision is heard and finally decided including issues relating to assessment of damages and costs of the proceeding;
- (ii) in a case where no appeal or reference is pending, when the period of limitation prescribed for the appeal or reference has expired and all issues relating to assessment of damages and costs of the proceeding are heard and finally decided; or
- (iii) in the case of an inquiry under the Coroners Act, when the Coroner decides not to hold an inquiry under section 25(2) of that Act or when the inquiry is concluded unless the Public Prosecutor requires the

Coroner to hold an inquiry or reopen the inquiry under section 26(1) or (3) of that Act, as the case may be;

- (d) a court proceeding that has been heard and finally decided will not be deemed to be pending merely by reason of the fact that proceedings for the execution of the decree, order or sentence passed in the proceedings are pending; and
- (e) a proceeding against a person in respect of any offence is deemed to include any criminal motion, case stated, or any other application made in or for the purposes of or in connection with the proceeding.

PART 2

TYPES OF CONTEMPT

Contempt by scandalising court, interfering with administration of justice, etc.

3.—(1) Any person who —

- (a) scandalises the court by intentionally publishing any matter or doing any act that —
 - (i) imputes improper motives to or impugns the integrity, propriety or impartiality of any court; and
 - (ii) poses a risk that public confidence in the administration of justice would be undermined;
- (b) intentionally publishes any matter that —
 - (i) prejudices an issue in a court proceeding that is pending and such prejudgment prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending; or
 - (ii) otherwise prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending;

- (c) intentionally interferes with (by intimidation or otherwise) or hinders another person's access to or ability to appear in court, knowing that this person is a party, witness, advocate or judge in ongoing court proceedings;
- (d) intentionally offers any insult or causes any interruption or obstruction to any judge of any court, while such judge is sitting in any stage of a court proceeding; or
- (e) intentionally does any other act that interferes with, obstructs or poses a real risk of interference with or obstruction of the administration of justice in any other manner, if the person knows or ought to have known that the act would interfere with, obstruct or pose a real risk of interference with or obstruction of the administration of justice,

commits a contempt of court.

Explanation 1.—Fair criticism of a court is not contempt by scandalising the court within the meaning of subsection (1)(a).

Explanation 2.—A publication of any matter which falls within subsection (1)(b)(i) or (ii) is not incapable of prejudicing or interfering with or posing a real risk of prejudice to or interference with, the course of any pending court proceedings, by reason only that the court is presided by a judge with legal and professional experience.

Illustration 1

A is charged for rape of *B*. *Z* publishes in a newspaper an interview with *A*'s ex-girlfriend, *Y*. In the interview, *Y* claims that *A* had previously brutally raped her and that *A* had served a long prison sentence for raping and molesting other women. The prosecution is not permitted to disclose *A*'s previous convictions during *A*'s pending rape trial. *Z*'s publication of this interview poses a real risk of prejudice to or interference with the course of pending court proceedings against *A*.

Illustration 2

A is charged for inflicting serious bodily harm on *B* outside a pub. As it was dark, *B* had difficulty recognising *B*'s assailant. *Z* posts on an Internet news site, a photo of *A* with fists clenched outside the pub with the caption, "Vicious Pub Bully Caught". The identity of *B*'s assailant is an issue in *A*'s pending trial. *Z*'s publication of *A*'s photo and caption poses a real risk of prejudice to or interference with the course of the pending court proceedings against *A*.

(2) Where any person publishes any matter or does any act referred to in subsection (1)(a), that person is guilty of contempt of court even if he or she did not intend to scandalise the court.

(3) Where any person publishes any matter referred to in subsection (1)(b), that person is guilty of contempt of court even if he or she did not intend to cause the consequences referred to in subsection (1)(b)(i) or (ii).

(4) A statement made by a person on behalf of the Government about the subject matter of or an issue in a court proceeding that is pending is not contempt of court under subsection (1)(b) if the Government believes that such statement is necessary in the public interest.

Illustration 1

A statement made by a person on behalf of the Government factually describing the events and circumstances relating to and leading up to the death of a person (such as the acts of public officials when a coroner's inquiry into that person's death is pending) which the Government believes is necessary to address inaccurate or incorrect public allegations, is not contempt of court by virtue of subsection (4).

Illustration 2

A statement made by a person on behalf of the Government factually describing the circumstances of a riot, when criminal proceedings against a person charged with participation in that riot are pending, which the Government believes is necessary in order to inform the public of the riot, is not contempt of court by virtue of subsection (4).

(5) For the purposes of subsection (4), "necessary in the public interest" includes but is not limited to matters that are necessary in the interests of the security of Singapore or any part of Singapore, public order, public health or public finances.

(6) Where contempt of court is committed by the doing of any act mentioned in subsection (1)(c) or (d), a person is guilty of contempt of court if that person knows or ought to have known that the act would prejudice or interfere with or obstruct or pose a real risk of prejudice to or interference with or obstruction of the course of the court proceeding.

Contempt by disobedience of court order or undertaking, etc.

4.—(1) Any person who —

- (a) intentionally disobeys or breaches any judgment, decree, direction, order, writ or other process of a court; or
- (b) intentionally breaches any undertaking given to a court,

commits a contempt of court.

(2) For the purposes of subsection (1), intentional disposal by a garnishee, otherwise than in accordance with law or by leave of the court, of any property attached in his or her hands or under his or her control, is contempt of court.

(3) Without prejudice to the generality of subsection (1), a person commits a contempt of court if the person —

- (a) being legally bound to produce or deliver any document to the court, intentionally omits to so produce or deliver up the document;
- (b) being legally bound to bind himself or herself by oath or affirmation to state the truth, refuses to so bind himself or herself;
- (c) being legally bound to state the truth on any subject to the court, refuses to answer any question demanded of him or her touching that subject by the court in the exercise of the lawful powers of the court; or
- (d) refuses to sign any statement made by him or her, when required to sign that statement by a court lawfully competent to require that he or she sign that statement.

(4) Subject to subsections (5), (6) and (7), any contempt of court referred to in subsection (1) or (2) may be waived by the aggrieved party and such waiver relieves from liability the person who commits the contempt.

(5) The court may, in its discretion, disallow the waiver of any contempt of court mentioned in subsection (1) or (2) in any of the following circumstances:

- (a) the Attorney-General has authorised investigations pursuant to section 22 for the contempt of court;
 - (b) proceedings have been commenced in respect of the contempt of court;
 - (c) the contempt of court is of such a nature that it interferes with, obstructs or poses a real risk of interference with or obstruction of the administration of justice;
 - (d) it would be contrary to the public interest to allow the waiver.
- (6) The court may, in granting any waiver of contempt of court under subsection (4), impose such conditions as it thinks fit.
- (7) To avoid doubt, contempt of court referred to in subsection (3) may not be waived.
- (8) A person who is not a party to an action commits contempt if he or she causes or abets the breach of any judgment, decree, direction, order, writ or other process of a court, with the intention of causing such breach or knowing that it would cause such breach.
- (9) In this section —
- “aggrieved party” means a party to the relevant proceedings for whose benefit any judgment, decree, direction, order, writ or other process of a court is given, made or issued, or any undertaking to a court is given, in proceedings other than a proceeding against a person in respect of any offence;
- “undertaking given to a court” includes an implied undertaking given to a court.

Contempt by unauthorised audio or visual recordings

- 5.—(1)** Subject to subsection (4), it is a contempt of court —
- (a) to use in court any audio recorder, electronic device or other instrument for audio or visual recording or both, or to bring into court any such instrument for the purpose of audio or visual recording or both, without the leave of the court;

- (b) to publish or transmit an audio or a visual recording or both of court proceedings made by means of any such audio recorder, electronic device or other instrument, or any recording derived directly or indirectly from it; or
- (c) to use any such recording in contravention of any conditions of leave granted under paragraph (a).

(2) Leave under subsection (1)(a) may be granted or refused at the discretion of the court, and if granted may be granted subject to such conditions as the court thinks proper with respect to the use of any recording made pursuant to the leave; and where leave has been granted, the court may at its discretion withdraw or amend it either generally or in relation to any particular part of the proceedings.

(3) Without prejudice to any other power to deal with an act under subsection (1)(a), the court may order the audio recorder, electronic device or other instrument, or any recording made with it, or both, to be forfeited; and any object so forfeited must (unless the court otherwise determines on application by a person appearing to be the owner) be sold or otherwise disposed of in such manner as the court may direct.

(4) This section does not apply to the making or use of audio or visual recordings or both for purposes of official transcripts of proceedings or any other purpose authorised by the court.

Contempt by corporations

6.—(1) Where, in a proceeding for contempt of court 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 contempt of court under this Act, a person —

(a) who is —

- (i) an officer of the corporation, or a member of a corporation whose affairs are managed by its members; or
- (ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the contempt of court; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the contempt of court;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the contempt of court by the corporation; or
- (iii) knew or ought reasonably to have known that the contempt of court by the corporation (or contempt of court 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 contempt of court,

shall be guilty of the same contempt of court as is the corporation, and shall be liable on being found guilty of contempt of court 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 contempt of court 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 V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of the corporation for contempt of court under this Act, and applies whether or not the corporation is found guilty of contempt of court.

(6) This section applies to an offence under this Act as if it were contempt of court under this Act and to a conviction as if it were a finding of guilt of contempt of court.

(7) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

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

“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.

Contempt by unincorporated associations or partnerships

7.—(1) Where, in a proceeding for contempt of court 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 —

- (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his or her actual or apparent authority; and
- (b) the 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 contempt of court under this Act, a person —

(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or
- (iii) an individual who is involved in the management of the unincorporated association or partnership and who is 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

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the contempt of court;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the contempt of court by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the contempt of court by the unincorporated association or partnership (or contempt of court 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 contempt of court,

shall be guilty of the same contempt of court as is the unincorporated association or partnership (as the case may be), and shall be liable on being found guilty of contempt of court to be punished accordingly.

(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 contempt of court 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 V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of an unincorporated association or a partnership for contempt of court under this Act, and applies whether or not the unincorporated association or partnership is found guilty of the contempt of court.

(6) This section applies to an offence under this Act as if it were contempt of court under this Act and to a conviction as if it were a finding of guilt of contempt of court.

(7) 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.

Common law rules on contempt

8.—(1) This Act prevails over any common law rule on contempt of court to the extent that such rule is inconsistent with any of the provisions of this Act.

(2) All defences at common law to contempt of court under this Act, not contained in this Act, are repealed.

(3) To avoid doubt, the common law rules on contempt of court continue in force except so far as they are inconsistent with the provisions of this Act.

(4) To avoid doubt, the common law rules in this section refer to both the substantive and procedural common law rules on contempt.

Inherent power of court

9. Nothing in this Act limits or affects the inherent powers of a court, including but not limited to —

- (a) the power of the High Court or the Court of Appeal to commence proceedings on its own motion for contempt of court;
- (b) the power of a court to cause a person to be removed from the court;
- (c) the coercive power of a court to detain a person in custody until that person complies with the court's order or direction for a period not exceeding the maximum term of imprisonment specified in section 12;
- (d) the power of the High Court or the Court of Appeal to issue an injunction including but not limited to an interim injunction to restrain a contempt of court; and
- (e) the power of a court to require a person to provide security for compliance with an order of court, the payment of any money or the performance or non-performance of any act.

PART 3

JURISDICTION AND PUNISHMENT FOR CONTEMPT

Power to punish for contempt

10.—(1) The High Court and the Court of Appeal have jurisdiction to try and power to punish for contempt of court.

(2) The High Court has and exercises the same jurisdiction, powers and authority in accordance with the same procedure and practice in respect of contempt committed in connection with proceedings in the Court of Appeal and contempt of courts subordinate to it as it has and exercises in respect of contempt of itself.

(3) The State Court, Family Court and Youth Court have jurisdiction to try and power to punish for contempt of court where the contempt is committed —

(a) in the face of that court other than a Small Claims Tribunal and an Employment Claims Tribunal; or

(b) in connection with any proceedings in that court.

(4) Despite subsection (3), the High Court in any particular case —

(a) may, either on its own motion or on the application of the alleged contemnor, order that the case be transferred to and be tried before the High Court; or

(b) must, on the application of the Attorney-General, order that the case be transferred to and be tried before the High Court.

Jurisdiction over certain publications, acts and omissions outside Singapore

11.—(1) Without prejudice to the jurisdiction and power conferred under this Act or any other written law, a court has jurisdiction to try any contempt of court and to impose the full punishment under this Act in the circumstances specified in subsections (2) to (5).

(2) Where the publication in relation to contempt of court was published through the Internet or other electronic media (regardless of whether it was first published in Singapore or elsewhere), the publication is taken to be published in Singapore if it was accessed by members of the public in Singapore.

(3) Where the publication in relation to contempt of court was published otherwise than in subsection (2) (regardless of whether it was first published in Singapore or elsewhere), if the publication was published in Singapore.

(4) Where the person who commits contempt of court under section 4 is legally bound to obey or comply with the judgment, decree, direction, order, writ or other process of a court or an undertaking given to a court, regardless of whether the disobedience or failure to comply occurred in Singapore or elsewhere.

(5) Where the act in relation to contempt of court under section 3(1)(c), (d) and (e) (regardless of whether it occurred wholly or partly outside Singapore) directly interferes with, obstructs or poses a real risk of interference with or obstruction of the administration of justice in Singapore.

Illustration 1

A resides in a foreign country and has agreed to testify as a witness in a criminal trial in Singapore. *B* stops *A* from travelling to Singapore to testify in the trial by making in the foreign country a death threat against *A*. The Singapore court has jurisdiction under subsection (5) to try and punish *B* for contempt of court.

Illustration 2

A accepts a bribe from *B* in a foreign country as gratification for giving false evidence in *A*'s testimony as a witness in a civil trial in Singapore. *A* gives false evidence in the trial in Singapore. The Singapore court has jurisdiction under subsection (5) to try and punish *B* for contempt of court.

Punishment for contempt of court

12.—(1) Except as otherwise provided in any other written law, a person who commits contempt of court shall be liable to be punished —

- (a) subject to paragraph (b), where the power to punish for contempt is exercised by the High Court or by the Court of Appeal, with a fine not exceeding \$100,000 or with imprisonment for a term not exceeding 3 years or with both;
- (b) where the power to punish for contempt is exercised by the High Court in relation to contempt in the face of or in connection with any proceedings in a State Court, Family Court or Youth Court, as the case may be, with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 12 months or with both; or

(c) where the power to punish for contempt is exercised by any other court, with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 12 months or with both.

(2) In addition to any punishment imposed under subsection (1), where a person has committed contempt in relation to the proceedings before a court, the court may refuse to hear the person until the contempt is purged or the person submits to the order or direction of the court or an apology is made to the satisfaction of the court.

(3) In addition to any punishment imposed under subsection (1), the court may, on its own motion or on application by the applicant in the contempt proceedings, make an order that the person who has committed contempt must publish such notice, and in such manner, as the court thinks necessary to apologise for the contemptuous publication.

(4) An order under subsection (3) may be made subject to such exceptions or conditions (including the duration for which the notification must be made accessible to members of the public) as may be specified in the order.

(5) Despite subsection (1), the court may discharge the person who has committed contempt or remit the punishment or any part of it on his or her purging of the contempt, submission to the order or direction of the court or on apology being made to the satisfaction of the court.

(6) To avoid doubt, the court may, if the interests of justice so require, find a person guilty of contempt of court and impose the punishment under this section even though the person is absent.

Power of Attorney-General to give non-publication direction

13.—(1) The Attorney-General may, if he or she is satisfied that it is in the public interest to do so and with the leave of the High Court under subsection (7), direct the publisher of any matter to refrain from or cease publishing that matter.

(2) A direction given under this section may be subject to such exceptions or conditions as may be specified in the direction.

(3) A direction under this section may be served by such means as prescribed in rules made by the Minister.

(4) A direction under this section takes effect in respect of the person to whom such direction applies —

(a) from the date when such direction is served or deemed served on that person; or

(b) such later date as the Attorney-General may specify.

(5) Any person who fails, without reasonable excuse, to comply with a direction under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) The Attorney-General may at any time suspend or cancel the direction.

(7) Leave of the High Court must be granted if the High Court is satisfied that —

(a) on the basis of a prima facie case that the person to whom the proposed direction will apply has published the matter specified in the proposed direction;

(b) on the basis of a prima facie case that the publication of such matter —

(i) imputes improper motives to or impugns the integrity, propriety or impartiality of any court; and poses a risk that public confidence in the administration of justice would be undermined;

(ii) prejudices an issue in a court proceeding that is pending and such prejudgment prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending; or

(iii) otherwise prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending; and

(c) any exception or condition specified in the proposed direction is just and equitable.

(8) An application for leave must be made in such manner as may be prescribed in Rules of Court or Family Justice Rules except that —

(a) the application must be heard without the presence of the person to whom the proposed direction applies or the author of the matter specified in the proposed direction; and

(b) the Attorney-General is not required to give the publisher notice of the application before the hearing of the application.

(9) The person to whom the direction applies, or the author of the matter specified in the direction, may apply to the High Court to set aside or vary the direction, within such period and in such manner as may be prescribed in Rules of Court or Family Justice Rules.

(10) On an application under subsection (9), the High Court may set aside or vary the direction in whole or in part if it is satisfied, on the balance of probabilities, that —

(a) the person to whom such direction applies did not publish the matter specified in the direction;

(b) the publication of such matter did not —

(i) impute improper motives to or impugn the integrity, propriety or impartiality of any court; and pose a risk that public confidence in the administration of justice would be undermined;

(ii) prejudge an issue in a court proceeding that is pending and such prejudgment prejudices, interferes with, or poses a real risk of prejudice to or interference with, the course of any court proceeding that is pending; and

(iii) otherwise prejudice, interfere with, or pose a real risk of prejudice to or interference with, the course of any court proceeding that is pending; or

(c) any exception or condition specified in the direction is not just and equitable.

(11) An application made under subsection (9) does not operate as a stay of the direction.

(12) No criminal or civil liability is to be incurred for anything done or omitted to be done with reasonable care and in good faith in complying with a direction given under this section.

(13) To avoid doubt, nothing in this section prevents the institution or continuation of proceedings for contempt of court in respect of a matter which is the subject of a direction.

(14) Every offence under this section is an arrestable offence for the purposes of the Criminal Procedure Code (Cap. 68).

(15) The Minister may make rules for the purposes of this section and for prescribing anything that is required to be prescribed.

(16) All rules made under subsection (15) are to be presented to Parliament as soon as possible after publication in the *Gazette*.

(17) In this section —

“author” means the originator of the matter published;

“publisher” means any person who publishes the matter and includes an Internet Content Provider as defined in any subsidiary legislation made under the Broadcasting Act (Cap. 28) but excludes any person or class of persons that the Minister may prescribe.

PART 4

DEFENCES TO CONTEMPT

Fair and accurate report of court proceeding not contempt

14.—(1) Subject to this section, a person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing in good faith a fair and accurate report of a court proceeding or any stage of the proceeding held in public, that was published contemporaneously with, or within a reasonable time after, that proceeding.

(2) A person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing in good faith a fair and accurate report of a proceeding before any court sitting in chambers or in camera, that was published contemporaneously with, or within a reasonable time after, that proceeding, except —

- (a) where the publication is contrary to the provisions of any written law;
- (b) where the court, on grounds of public policy or in exercise of any power vested in it, expressly prohibits the publication of all information relating to the proceeding or of information of the description which is published;
- (c) where the court sits in chambers or in camera for reasons connected with public order or the security of the State; or
- (d) where the information relates to a secret process, discovery or invention, or other confidential information which is an issue in the proceedings.

(3) A person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing the text or a fair and accurate summary of the whole, or any part, of an order made by a court sitting in chambers or in camera, unless the court has expressly prohibited such publication.

(4) In any court proceedings, the court may, where it appears to be necessary to the administration of justice in those proceedings, or in any other proceedings pending or imminent, order that the publication of any report of the proceedings, or any part of the proceedings, be postponed for such period as the court thinks necessary for that purpose.

Fair and accurate report of parliamentary proceedings not contempt

15.—(1) A person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing in good faith a fair and accurate report of proceedings in Parliament or before a committee of Parliament, that was published contemporaneously with, or within a reasonable time after, the proceedings.

(2) A person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing in good faith a fair and accurate report of matter in a document presented to or laid before Parliament or a committee of Parliament, that was published contemporaneously with, or within a reasonable time after, the presentation or tabling of the document.

(3) To avoid doubt, nothing in this Act limits or affects the privileges, immunities and powers of Parliament.

Report in good faith made to Chief Justice, police, etc., not contempt

16.—(1) To avoid doubt, a person is not guilty of contempt of court under section 3(1)(a) by reason that he or she has made a report to the Chief Justice, the police, a law enforcement agency or any other public authority alleging misconduct or corruption on the part of a judge, being a report —

(a) which is made in good faith; and

(b) which discloses grounds which, if unrebutted, would provide a sufficient basis for the investigation of the allegation of misconduct or corruption.

(2) In this section, “law enforcement agency” has the same meaning as in the Criminal Procedure Code (Cap. 68).

Filing of pleadings and application against judge not contempt

17.—(1) A person is not guilty of contempt of court under section 3(1)(a) for filing in good faith any action, pleading, application or affidavit in court.

(2) Without prejudice to the generality of subsection (1), a person is not guilty of contempt of court in respect of any application he or she may make to seek the disqualification of the judge, on any ground or statement made by him or her in good faith concerning the judge of any court to that court or to —

(a) any other court with equivalent jurisdiction; or

(b) a superior court.

(3) Without prejudice to the generality of subsection (1), a person is not guilty of contempt of court in respect of any appeal that the person may lodge against a judgment, decree, direction, order or other decision of a judge of any court, on any ground or statement made by him or her in good faith concerning the judge to that court or to —

- (a) any other court with equivalent jurisdiction;
- (b) a superior court; or
- (c) a judge who has supervisory jurisdiction over the equivalent or superior court.

Innocent publication or distribution

18.—(1) A person (not being the author) exercising editorial responsibility or other control over a publication is not guilty of contempt of court under section 3(1)(a) or (b) for publishing any matter if the publication was done without the person’s authority, consent or knowledge, and without any want of due care or caution on that person’s part.

(2) A person (not being the author) is not guilty of contempt of court under section 3(1)(a) or (b) for distributing any matter if the distribution was done without the person’s authority, consent or knowledge, and without any want of due care or caution on that person’s part.

(3) In this section, “author” means the originator of the matter published or distributed.

Publication outside Singapore

19. A person is not guilty of contempt of court under section 3(1)(a) or (b) for publishing any matter outside Singapore if the person did not know and had no reason to believe that the publication would be seen or heard by members of the public in Singapore.

No knowledge proceedings were pending

20. A person is not guilty of contempt of court under section 3(1)(b) for publishing any matter that prejudices, interferes with, or poses a real risk of prejudice to or interference with the course of any court

proceeding that is pending if the person did not know and had no reason to believe that those proceedings were pending.

Honest and reasonable mistake

21. A person is not guilty of contempt of court under section 4(1), (2) or (3) if the person satisfies the court that the failure or refusal to comply with a judgment, order, decree, direction, writ or other process of court or any undertaking given to a court was wholly or substantially attributable to an honest and reasonable failure by that person, at the relevant time, to understand an obligation imposed on the person bound by the judgment, order, decree, direction, writ, process or undertaking and that that person ought fairly to be excused.

PART 5

INVESTIGATIONS BY POLICE AND APPLICATION OF CRIMINAL PROCEDURE CODE

Investigations by police and application of this Part

22.—(1) Where the Attorney-General —

- (a) receives a complaint from a judge that contempt of court has been committed; or
- (b) has reasonable grounds to otherwise suspect that contempt of court has been committed and that it is in the public interest to do so,

the Attorney-General must, in the case of a complaint made under paragraph (a) in relation to contempt of court under section 3 or 4(8), and may, in any other case, by order in writing authorise a police officer to investigate the alleged contempt as if it were an arrestable offence in such manner or mode as may be specified in that order.

(2) This Part applies to the alleged contempt referred to in subsection (1).

Application of Criminal Procedure Code

23.—(1) The Attorney-General may by order in writing authorise a police officer to exercise, for the purposes of any investigation under

section 22, all or any of the powers in relation to police investigations given by the Criminal Procedure Code (Cap. 68) as set out in Part 1 of the Schedule.

(2) For the purposes of any investigation under section 22, the provisions of the Criminal Procedure Code set out in Part 2 of the Schedule apply, with the necessary modifications, as if the alleged contempt were an arrestable offence.

Statements recorded admissible

24. The statements made to a police officer in the course of investigations conducted pursuant to an order made under section 22 are admissible as evidence in proceedings for contempt of court under this Act in accordance with section 258 or 259 of the Criminal Procedure Code (Cap. 68), as may be applicable.

PART 6

PROCEDURAL MATTERS

Summary procedure where contempt is in face of court

25.—(1) Where it appears to a court (other than a Small Claims Tribunal and an Employment Claims Tribunal), that a person has committed contempt in the face of the court, and that court is satisfied that it is necessary for immediate steps to be taken for the protection of the due administration of justice, that court may cause such person to be detained in custody, and must as soon as practicable —

- (a) cause the person to be informed in writing of the contempt with which he or she is charged;
- (b) afford the person an opportunity to make his or her defence to the charge;
- (c) after taking such evidence as may be necessary or as may be offered by the person and after hearing the person, proceed, either immediately or after adjournment, to determine the matter of the charge; and
- (d) make such order for the punishment or discharge of the person as may be just.

(2) Despite subsection (3), the court may direct that a person charged with contempt in the face of the court be detained in such custody as the court may specify pending the determination of the charge or be released on bail or on his or her own bond.

(3) The provisions under Division 5 of Part VI of the Criminal Procedure Code (Cap. 68) apply to any case where the court releases the person charged with a contempt of court on bail or on his or her own bond under this section and for the purposes of those provisions, the contempt of court is treated as a non-bailable offence.

(4) To avoid doubt and despite subsections (1) and (2), the proceedings being conducted in the court before the contempt in the face of the court was committed may continue as the court thinks fit.

Contempt proceedings

26.—(1) Proceedings for contempt of court and the power of the court to punish the contempt of court must be exercised in accordance with the procedure set out in Rules of Court or Family Justice Rules.

(2) To avoid doubt, this section applies to proceedings for contempt of court even though —

- (a) the Attorney-General has under section 22 authorised a police officer to investigate an alleged contempt as if it were an arrestable offence;
- (b) the Attorney-General has under section 23 authorised a police officer to exercise all or any of the powers in relation to police investigations set out in Part 1 of the Schedule; or
- (c) the Attorney-General's consent is required under section 30 for the institution of such proceedings for contempt of court.

(3) The court in any proceedings for contempt of court may award costs to be paid by or to any party as it thinks fit.

(4) The Rules Committee constituted under the Supreme Court of Judicature Act (Cap. 322) may make Rules of Court prescribing the procedure for proceedings for contempt of court, the procedure for

the punishment of contempt of court and the procedure under section 13(8) and (9).

(5) The Family Justice Rules Committee constituted under the Family Justice Act 2014 (Act 27 of 2014) may make Family Justice Rules prescribing the procedure for proceedings for contempt of court, the procedure for the punishment of contempt of court and the procedure under section 13(8) and (9).

(6) To avoid doubt and for the purposes of the Supreme Court of Judicature Act and the State Courts Act (Cap. 321), any originating process for contempt of court is an originating process for the purposes of service outside Singapore in the circumstances authorised by and in the manner prescribed by Rules of Court or Family Justice Rules.

Bail in contempt proceedings

27.—(1) When any person appears before a court in proceedings for contempt of court, the person may be released on bail by that court.

(2) Instead of taking bail from the person, the court may release the person if he or she signs a personal bond without sureties.

(3) The provisions under Division 5 of Part VI of the Criminal Procedure Code (Cap. 68) apply to any case where the court releases the person charged with a contempt of court on bail or on his or her own bond under this section and for the purposes of those provisions, the contempt of court is treated as a non-bailable offence.

(4) A court may grant bail to a person who has filed an appeal against any order or decision in accordance with section 32.

Standard of proof for contempt of court

28. The standard of proof for establishing contempt of court is that of beyond reasonable doubt.

Burden and standard of proof for defences

29. To avoid doubt, the burden of proof for proving the existence of circumstances bringing the case within any of the defences to

contempt of court under Part 4 is upon the person relying on the defence and the standard of proof is on the balance of probabilities.

Consent of Attorney-General

30.—(1) No proceedings for contempt of court as defined in section 3 or 4(8) may be instituted except by or with the consent of the Attorney-General.

(2) To avoid doubt, proceedings for contempt in the face of the court under section 25 and any other proceedings commenced by the High Court or the Court of Appeal on its own motion do not require the consent of the Attorney-General.

Attorney-General's power to take over conduct of proceedings, etc.

31. Where proceedings for contempt of court, that were not commenced by a court, are conducted by a person other than the Attorney-General, the Attorney-General may, if he or she thinks fit, take over the conduct of the proceedings at any stage of the proceedings and continue the proceedings or, with the consent of the court, discontinue the proceedings.

Appeals

32.—(1) An appeal lies from any order or decision of the High Court, a State Court, a Family Court or a Youth Court —

(a) in the exercise of its jurisdiction to try and punish for contempt of court; or

(b) otherwise under this Act.

(2) In addition to the cases in section 34(2) of the Supreme Court of Judicature Act (Cap. 322), no appeal under subsection (1) against any order or decision of the High Court in the exercise of its appellate jurisdiction can be brought to the Court of Appeal except with the leave of the High Court or the Court of Appeal.

(3) The appeal or application for leave to appeal must be filed in accordance with Rules of Court or Family Justice Rules, as the case may be, as if the appeal were an appeal in civil proceedings.

(4) An appeal does not operate as a stay of execution unless the trial court or the appellate court so orders.

(5) The trial court or the appellate court may stay execution on any judgment, order or punishment pending appeal on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment or order as to the court may seem reasonable.

(6) At the hearing of the appeal, the appellate court has and may exercise any power which the trial court may have exercised.

Enforcement of fines

33. Payment of a fine for contempt of court imposed by any court may be enforced upon the order of the court in like manner as a fine imposed by a court in criminal proceedings under the Criminal Procedure Code (Cap. 68).

PART 7

MISCELLANEOUS

Amendment of Schedule

34.—(1) The Minister may, by order in the *Gazette*, amend, add to or vary the Schedule.

(2) The Minister may, in any order made under subsection (1), make such saving or transitional provisions as may be necessary or expedient.

(3) All orders made under subsection (1) are to be presented to Parliament as soon as possible after publication in the *Gazette*.

Saving and transitional provisions

35.—(1) This Act does not apply to any act of contempt of court committed before the appointed day.

(2) Any rules of court made under or in respect of the repealed section 7 of the Supreme Court of Judicature Act (Cap. 322) or the repealed section 8 of the State Courts Act (Cap. 321) and in force

immediately before the appointed day will, so far as they are not inconsistent with the provisions of this Act, continue in force as if made under this Act until they are revoked or repealed by Rules of Court made under this Act.

(3) Any Family Justice Rules made under or in respect of the repealed section 11 of the Family Justice Act 2014 (Act 27 of 2014) and in force immediately before the appointed day will, so far as they are not inconsistent with the provisions of this Act, continue in force as if made under this Act until they are revoked or repealed by Family Justice Rules made under this Act.

(4) In this section, “appointed day” means the date of commencement of this Act.

PART 8

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Consequential amendments to Bankruptcy Act

- 36.** The Bankruptcy Act (Cap. 20, 2009 Ed.) is amended —
- (a) by deleting subsection (15) of section 83; and
 - (b) by deleting subsection (5) of section 95A.

Consequential amendment to Community Mediation Centres Act

37. Section 15 of the Community Mediation Centres Act (Cap. 49A, 1998 Ed.) is amended by deleting subsection (3).

Consequential amendment to Community Disputes Resolution Act 2015

38. Section 30(3) of the Community Disputes Resolution Act 2015 (Act 7 of 2015) is amended by deleting the words “section 8 of the State Courts Act (Cap. 321)” and substituting the words “the Administration of Justice (Protection) Act 2016”.

Consequential amendments to Criminal Procedure Code

39. The Criminal Procedure Code (Cap. 68, 2012 Ed.) is amended —

- (a) by repealing Division 1 of Part XXI;
- (b) by deleting the words “The court in which the offence is committed subject to the provisions of Division 1 of Part XXI, or if not committed in a court, a” against section 175 in the First Schedule;
- (c) by deleting the following item in the First Schedule:

“175	If the document or electronic record is required to be produced in or delivered to a court of justice	Ditto	Ditto	Ditto	Imprisonment for 6 months, or fine*, or both	Ditto”;
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- (d) by deleting the words “The court in which the offence is committed, subject to the provisions of Division 1 of Part XXI, or if not committed in a court, a” against section 178 in the First Schedule; and
- (e) by deleting the words “The court in which the offence is committed, subject to the provisions of Division 1 of Part XXI” against section 228 in the First Schedule and substituting the words “District Court”.

Consequential amendment to Family Justice Act 2014

40. Section 11 of the Family Justice Act 2014 (Act 27 of 2014) is repealed.

Consequential amendment to Parliamentary Elections Act

41. Section 92 of the Parliamentary Elections Act (Cap. 218, 2011 Ed.) is amended by deleting subsection (5) and substituting the following subsection:

“(5) Any person who wilfully refuses to obey the order of the Election Judge under subsection (4) shall be guilty of contempt

of court under section 4(1) of the Administration of Justice (Protection) Act 2016.”.

Consequential amendments to Penal Code

42. The Penal Code (Cap. 224, 2008 Ed.) is amended —

(a) by renumbering section 21 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) Despite subsection (1), the words “public servant” in sections 175, 178, 179, 180 and 228 does not include a judge as defined in the Administration of Justice (Protection) Act 2016.”;

(b) by deleting the words “; or, if the document or electronic record is to be produced or delivered up to a court of justice, with imprisonment for a term which may extend to 6 months, or with fine which may extend to \$3,000, or with both” in section 175; and

(c) by deleting the Illustration in section 175.

Consequential amendment to Presidential Elections Act

43. Section 72 of the Presidential Elections Act (Cap. 240A, 2011 Ed.) is amended by deleting subsection (4) and substituting the following subsection:

“(4) Any person who wilfully refuses to obey the order of the Election Judge under subsection (3)(a) shall be guilty of contempt of court under section 4(1) of the Administration of Justice (Protection) Act 2016.”.

Consequential amendment to State Courts Act

44. Section 8 of the State Courts Act (Cap. 321, 2007 Ed.) is repealed.

Consequential amendment to Supreme Court of Judicature Act

45. Section 7 of the Supreme Court of Judicature Act (Cap. 322, 2007 Ed.) is repealed.

Consequential amendments to Women’s Charter

46. The Women’s Charter (Cap. 353, 2009 Ed.) is amended —

- (a) by deleting the word “Failure” in section 50(3) and substituting the words “Despite the provisions of the Administration of Justice (Protection) Act 2016, failure”;
- (b) by deleting subsection (9) of section 65; and
- (c) by deleting subsection (3) of section 131.

THE SCHEDULE

Sections 23 and 34

**APPLICABLE PROVISIONS OF CRIMINAL PROCEDURE CODE FOR
PURPOSES OF INVESTIGATIONS UNDER SECTION 23****PART 1****POWERS OF INVESTIGATION INTO ALLEGED CONTEMPT**

1. Section 6
2. All powers under Part IV
3. Section 78(2)
4. Section 81
5. Section 83
6. Section 112
7. Section 113

PART 2**OTHER APPLICABLE PROVISIONS OF
CRIMINAL PROCEDURE CODE**

1. Part IV (Information to police and powers of investigation).

THE SCHEDULE — *continued*

2. Division 7 of Part VI (Surrender of travel document and requirement to remain in Singapore).
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