

# COMMON SERVICES TUNNELS ACT 2018

(No. 17 of 2018)

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An Act to establish common services tunnel areas and for the regulation of activities within or connected with common services tunnel areas to ensure the safe and efficient operation and functionality of any common services tunnel and any ancillary facility of the common services tunnel, and for connected purposes.

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 Common Services Tunnels Act 2018 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 —

“ancillary facility”, in relation to a common services tunnel, means —

- (a) any electrical substation, electrical switch room, generator set room or control centre used for the purposes of the common services tunnel; and
- (b) any ancillary structure;

“ancillary structure”, in relation to a common services tunnel, means —

- (a) any entrance to or exit from the common services tunnel;
- (b) any passage, corridor or stairway connecting an entrance to or exit from the common services tunnel;
- (c) any ventilation opening, duct or shaft necessary for the operation or functioning of the common services tunnel; and
- (d) any supporting physical structure necessary for the operation or functioning of the common services tunnel;

“authorised officer” means an authorised officer appointed under section 5(1);

“authorised person” has the meaning given in section 9(7);

“common services tunnel” or “CST” means a system of underground concrete structures within a common services

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tunnel area used or intended to be used for the purpose of the housing and distribution of utility services to land within and outside the area;

“common services tunnel area” or “CST area” means an area declared as a common services tunnel area under section 6;

“Common Services Tunnels Authority” or “CST Authority”, in relation to any provision of this Act or CST area, means —

(a) any CST Authority appointed under section 4 to be responsible for the administration of that provision; and

(b) if different CST Authorities are appointed under section 4 for different CST areas, the CST Authority appointed for that CST area;

“entrance” or “exit”, in relation to a common services tunnel, includes a manhole leading to or from, as the case may be, the common services tunnel;

“land” includes buildings, premises, easements and hereditaments of any tenure;

“occupier” means a person in occupation of any land and includes the person having the charge, management or control of the land either on his or her own account or as an agent of another person;

“private land” means any land other than public land;

“public authority” means a body established or constituted by or under a public Act to perform or discharge a public function;

“public land” means any of the following land, whether publicly accessible or not:

(a) State land;

(b) common property or open space vested in or under the care, control or management of the Housing and Development Board established under the Housing and Development Act (Cap. 129) or a Town Council

established under the Town Councils Act (Cap. 329A); or

- (c) any land vested in or under the care, control or management of any other public authority by the operation of written law;

“utility service” means —

(a) for electricity —

- (i) the distribution of electricity through an electricity network;
- (ii) the transmission of electricity through an electricity network;
- (iii) the generation of electricity connected to an electricity network; or
- (iv) the provision by a person to another person of an electricity connection service;

(b) for gas —

- (i) the distribution of gas through a gas distribution network;
- (ii) the transmission of gas through a gas transmission network; or
- (iii) the provision by a person to another person of a gas connection service;

(c) for water —

- (i) the collection or treatment, or both, of water for distribution through a water network;
- (ii) the provision by a person to another person of a water connection service;
- (iii) the making of a water network available for the provision of a water connection service;
- (iv) the distribution of water through a water network; or

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- (v) the supply of water from a water network by a person to the premises of another person for consumption or use;
  - (d) for sewerage —
    - (i) the provision by a person to another person of a sewerage connection service;
    - (ii) the making of a sewerage network available for the provision of a sewerage connection service; or
    - (iii) the provision by a person to another person of a sewerage service;
  - (e) the provision by a person to another person of a broadcasting service (within the meaning of the Broadcasting Act (Cap. 28)) or a telecommunication service (within the meaning of the Telecommunications Act (Cap. 323));
  - (f) the provision by a person to another person of the service of draining stormwater or surface water, or of pneumatic refuse removal; or
  - (g) the provision by a person of such other service prescribed as a utility service for the purposes of this Act;

“utility services infrastructure” means any cables, wires, lines, pipes, or ducts used, or for use, in relation to the provision of any utility service, and includes any of the following:

- (a) powerlines, substations and equipment for monitoring, distributing, converting, transforming or controlling electricity;
- (b) pipelines, meters or equipment (such as pressure control devices, excess flow valves, actuators, electrical equipment, telemetry equipment and protection installations) used, or for use, in relation to the transmission or distribution of gas;

- (c) water storages, mains and treatment plants, pumps, facilities and equipment for distributing water, or monitoring or controlling the distribution of water for supply to premises;
  - (d) sewerage storages, trunk sewers, mains and treatment plants, pumps, facilities and equipment for conveying sewerage, or monitoring or controlling the conveyance of sewerage.
- (2) In this Act —
- (a) a reference to the maintenance and repair of a common services tunnel —
    - (i) means maintaining, repairing or improving the structure of the common services tunnel, and carrying out such other temporary or permanent works as may be necessary, to render the common services tunnel safe, functional and operational; and
    - (ii) includes installing, operating, maintaining, repairing and improving any plant, installation, equipment, machinery, cables, wires, lines, pipes, drains, ducts and other facilities laid, placed, installed or housed within the common services tunnel that are —
      - (A) utility services infrastructure; or
      - (B) used, or for use, in relation to the operation and functioning of the common services tunnel itself; and
  - (b) a reference to the maintenance and repair of an ancillary facility of a common services tunnel —
    - (i) means maintaining, repairing or improving the structure of the ancillary facility of the common services tunnel, and carrying out such other temporary or permanent works as may be necessary, to render the ancillary facility of the common services tunnel safe, functional and operational; and



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- (ii) includes installing, operating, maintaining, repairing and improving any plant, installation, equipment, machinery, cables, wires, lines, pipes, drains, ducts and other facilities that are necessary —
    - (A) for the use or functioning of the ancillary facility; or
    - (B) for the operation and functioning of the common services tunnel itself.

### **Purpose of Act**

3. The purpose of this Act is —
- (a) to establish common services tunnel areas;
  - (b) to ensure the safe and efficient operation and functionality of common services tunnels and any ancillary facility of a common services tunnel;
  - (c) to require suppliers of utility services to execute agreements to use a common services tunnel for the purpose of laying, placing or installing, or to house, their utility services infrastructure;
  - (d) to secure the right of access by authorised officers, authorised persons and persons authorised by authorised officers to any common services tunnel and any ancillary facility of the common services tunnel; and
  - (e) to ensure the upkeep of any ancillary facility of a common services tunnel by owners and occupiers of land on which the ancillary facility is located.

## PART 2

### ADMINISTRATION

#### **Common Services Tunnels Authority**

4.—(1) The Minister may appoint a person to be a Common Services Tunnels Authority responsible for the administration of this Act.

- (2) For the purposes of subsection (1), the Minister may —
- (a) appoint different Common Services Tunnels Authorities to be responsible —
    - (i) for the whole or any provision of this Act, or for different regulations made under this Act; and
    - (ii) for different common services tunnel areas; and
  - (b) specify the extent and manner in which the responsibility mentioned in paragraph (a) is to be exercised.

(3) Where a public authority is appointed by the Minister under subsection (1) to be a CST Authority responsible for the operation of this Act, for any particular Part or provision of this Act or for any particular regulations made under this Act, whether in respect of all common services tunnel areas or any common services tunnel area —

- (a) it is the function and duty of the public authority to do so in accordance with that subsection, in addition to such functions and duties imposed on the public authority under any other written law; and
- (b) the public authority is deemed to be fulfilling the purposes of the Act constituting that public authority, and the provisions of that Act apply to the public authority in respect of that function and duty.

### **Authorised officers**

**5.—(1)** A CST Authority may, by name or office, appoint as an authorised officer —

- (a) any public officer; or
- (b) any employee of an approved public authority.

(2) An authorised officer is subject to the direction and control of the CST Authority that appointed the authorised officer.

(3) An authorised officer appointed under subsection (1) is deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

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(4) In subsection (1)(b), “approved public authority” means a public authority which is approved by the Minister for the purposes of this section.

### PART 3

#### COMMON SERVICES TUNNEL AREAS

##### **Declaration of common services tunnel areas**

6.—(1) The Minister may, from time to time, by notification in the *Gazette*, declare an area to be a common services tunnel area.

(2) The area that may be declared a common services tunnel area consists of any area within Singapore within which a common services tunnel and any ancillary facility of the common services tunnel is built or is proposed to be built.

(3) A notification under subsection (1) must —

- (a) define the limits of the common services tunnel area; or
- (b) state that a plan of the common services tunnel area may be inspected at a place and within such time as is specified in the notification.

##### **Changes to common services tunnel area**

7.—(1) The Minister may, by notification in the *Gazette* —

- (a) revoke any declaration made under section 6(1); or
- (b) modify an area declared as a common services tunnel area under section 6(1).

(2) A notification under subsection (1)(b) modifying an area declared as a common services tunnel area must —

- (a) define the part of the common services tunnel area that is modified; or
- (b) provide that a plan of the modification of the common services tunnel area may be inspected at a place and within such time as is specified in the notification.

**Notice of declaration and modification of declaration**

**8.**—(1) Before making any declaration under section 6(1) or modifying a declaration under section 7(1)(b), the Minister must give advance notice in the *Gazette* of the Minister's intention to make or modify the declaration.

(2) The notice mentioned in subsection (1) —

(a) must either —

(i) define the area that is proposed to be declared as a common services tunnel area or the part of common services tunnel area that is proposed to be modified; or

(ii) provide that a plan of the proposed common services tunnel area or of the part of the common services tunnel area proposed to be modified may be inspected at a place and within such time as is specified in the notice; and

(b) must specify the time (not being less than 28 days after the publication of the notice in the *Gazette*) within which written representations with respect to the intended declaration or modification of the declaration may be made.

(3) The Minister must consider any written representation that is made within the time specified in the notice under subsection (2)(b).

(4) The decision of the Minister after considering any written representation is final.

**PART 4****POWERS IN RELATION TO COMMON  
SERVICES TUNNEL AND ANCILLARY FACILITIES****Power to access common services tunnel**

**9.**—(1) An authorised person may enter any land situated within a common services tunnel area in order —

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- (a) to carry out any inspection or survey of the common services tunnel within that area or any ancillary facility of such a common services tunnel; and
  - (b) to carry out any work and do all things necessary for —
    - (i) the maintenance and repair of the common services tunnel within that area or any ancillary facility of such a common services tunnel, or both; or
    - (ii) the laying, placing, installing, housing, maintenance and repair of utility services infrastructure within the common services tunnel within that area.
- (2) For the purposes of subsection (1), an authorised person must not enter any land that is occupied without giving the owner or occupier of the land at least 7 days' notice of intention to do so unless —
- (a) the authorised person is of the opinion that an emergency exists which necessitates immediate entry; or
  - (b) the entry is required only for the purpose of an inspection or a survey.
- (3) A notice of intention mentioned in subsection (2) —
- (a) must describe the purpose of the entry and the nature of any work to be carried out; and
  - (b) is, despite section 22, deemed to be given to and received by an owner or occupier of the land if a written notice is affixed to a conspicuous part of the land to be entered.
- (4) The authorised person may —
- (a) as the occasion requires and without notice, enter and re-inspect and re-survey any land in respect of which any of the powers contained in subsection (1) have been exercised; and
  - (b) in relation to that land, exercise such powers as often as the occasion may require.

(5) Any authorised person under this section entering any land must, if so required by the owner or occupier of the land, produce evidence of the authorised person's authority before so entering.

(6) An authorised person is not liable to pay any owner or occupier of any private land any fee, charge or expense on account of any entry to the land or of anything done to the land under this section.

(7) In this section —

“authorised person” means —

- (a) an authorised officer; or
- (b) any of the following persons authorised in writing by an authorised officer for the purposes of this section:
  - (i) a public officer;
  - (ii) an employee of a public authority;
  - (iii) a contractor;
  - (iv) a supplier of utility services which utility services infrastructure are, or are required to be, laid, placed, installed or housed within a common services tunnel;
  - (v) an employee or agent of a contractor mentioned in sub-paragraph (iii) or of a supplier of utility services mentioned in sub-paragraph (iv);

“contractor” means a person appointed or engaged by a CST Authority or a public authority to do one or both of the following:

- (a) to carry out inspections or surveys of a common services tunnel or any ancillary facility of a common services tunnel;
- (b) to carry out work, and do all things necessary, for the maintenance and repair of a common services tunnel or any ancillary facility of a common services tunnel.

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**Power to prevent obstruction to ancillary structures of common services tunnel**

**10.—(1)** A person must not, without the written approval of an authorised officer —

- (a) erect or place any structure or object across or within any ancillary structure of a common services tunnel that is within a common services tunnel area; or
- (b) obstruct or cause an obstruction to any ancillary structure of a common services tunnel that is within a common services tunnel area.

(2) If any structure or object is erected or placed, or any obstruction is caused, in contravention of subsection (1), an authorised officer may by order in writing require a specified person, within such time as may be specified in the order, to —

- (a) remove the structure, object or obstruction; and
- (b) return the ancillary structure of the common services tunnel to its original state and condition.

(3) An authorised officer may cause the structure, object or obstruction mentioned in subsection (1) to be removed —

- (a) if the specified person fails to comply with the order under subsection (2); or
- (b) if access to or through the ancillary structure of a common services tunnel is required immediately.

(4) The cost of removing a structure, object or obstruction may be recovered by the authorised officer as a civil debt in a court of competent jurisdiction —

- (a) where the structure, object or obstruction was removed under subsection (3)(a), from the specified person to whom the order under subsection (2) was served; or
- (b) where the structure, object or obstruction was removed under subsection (3)(b), from the owner or occupier of the land from which the structure, object or obstruction was removed.

(5) A person who contravenes subsection (1), or a specified person who fails to comply with an order under subsection (2), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(6) In this section, “specified person” means any one or more of the following:

- (a) a person who erected or placed the structure or object, or who obstructs or is causing or caused the obstruction, mentioned in subsection (1);
- (b) the owner or occupier of the land within a common services tunnel area on or in which any ancillary structure of a common services tunnel is located;
- (c) any other person having the power to remove the structure, object or obstruction mentioned in subsection (1).

(7) For the purposes of this section, a reference to a person or specified person does not include the Government, a public authority, or a person acting on behalf of the Government or a public authority.

### **Power to require upkeep of ancillary structures**

**11.—**(1) An owner or occupier of land within a common services tunnel area on or in which any ancillary structure of a common services tunnel is located must take reasonable measures to keep and maintain the ancillary structure of a common services tunnel within the owner’s or occupier’s land in good and serviceable repair.

(2) An authorised officer may by order in writing require the owner or occupier of the land mentioned in subsection (1) to take such measures and carry out such works, within the time specified in the order, as the authorised officer thinks reasonably necessary to keep and maintain any ancillary structure of a common services tunnel within the owner’s or occupier’s land in good and serviceable repair.

(3) The cost of any measures or works required to be carried out by an order under subsection (2) must be borne by the owner or occupier of the land on whom the order is served.



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(4) An owner or occupier of the land who, without reasonable excuse, contravenes subsection (1) or fails to comply with an order under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(5) Where an owner or occupier of the land on whom an order under subsection (2) is served fails to comply with the order, an authorised officer, or a person authorised by the authorised officer for the purposes of this section, may, at any reasonable time, or at such other time as may be agreed with the owner or occupier of the land, enter the land, and take such measures and execute such work as may be necessary to secure compliance with the order but without affecting any proceedings that may be taken against that owner or occupier under subsection (4).

(6) Any expenses reasonably incurred by the authorised officer, or by the person authorised by the authorised officer, under subsection (5) may be recovered from the owner or occupier of the land who failed to comply with the order served under subsection (2) as a civil debt in a court of competent jurisdiction.

(7) For the purposes of this section, a reference to the owner or occupier of land does not include the Government or a public authority.

### **Engineering works within common services tunnel protection zone**

**12.—**(1) A person must not, without the prior written approval of an authorised officer, carry out any engineering works within a common services tunnel protection zone.

(2) The approval of an authorised officer under subsection (1) may be subject to such conditions as the authorised officer considers necessary, including any condition —

- (a) to prevent damage by those engineering works to any common services tunnel, or any ancillary facility of the common services tunnel, or both; and

(b) to ensure the safe and efficient operation and functioning of any common services tunnel, or any ancillary facility of the common services tunnel, or both.

(3) Without limiting subsection (2), the conditions that may be imposed by an authorised officer include the construction, in accordance with the specifications of the authorised officer, of such temporary or permanent structures in addition to or in place of any existing part of any ancillary facility of the common services tunnel.

(4) A modification to an ancillary facility of the common services tunnel, or a replacement of an ancillary facility of the common services tunnel, made pursuant to a condition of approval under subsection (2) is to be treated as if it were one and the same as the original ancillary facility of the common services tunnel, and as subject to this Act as such.

(5) Where any works or other activity is carried out in contravention of subsection (1) or any condition imposed under subsection (2), an authorised officer may, by order in writing, require any specified person to do one or more of the following:

- (a) immediately stop carrying on those engineering works, either indefinitely or for a period specified in the order;
- (b) carry out, within a time specified in the order, such works as the authorised officer thinks necessary to protect the common services tunnel and any ancillary facility of the common services tunnel;
- (c) return the common services tunnel, and any ancillary facility of the common services tunnel, to its original state and condition within a time specified in the order.

(6) Where a specified person on whom an order under subsection (5)(b) or (c) is served fails to comply with the order, an authorised officer, or a person authorised by the authorised officer for the purposes of this section, may, at any reasonable time, or at such other time as may be agreed with the owner or occupier of the land to which the order relates, enter the land, and take such measures and execute such work as may be necessary to secure compliance with the

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order but without affecting any proceedings that may be taken against that specified person under subsection (8).

(7) Any expenses reasonably incurred by the authorised officer, or by the person authorised by the authorised officer, under subsection (6) may be recovered from the person who failed to comply with the order served under subsection (5)(b) or (c) as a civil debt in a court of competent jurisdiction.

(8) A person who contravenes subsection (1) or fails to comply with any condition imposed under subsection (2), or a specified person who fails to comply with an order under subsection (5), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(9) In this section —

“common services tunnel protection zone” means an area within the CST area for a common services tunnel —

- (a) declared by a CST Authority for the CST area as an area where engineering works may affect the safe and efficient operation and functionality of the common services tunnel or any ancillary facility of the common services tunnel; and
- (b) made available to a person seeking to carry out engineering works in the CST area in the prescribed manner;

“engineering works” means any kind of construction work that may affect the structural integrity of a common services tunnel or any ancillary facility of a common services tunnel, or its safe and efficient operation and functioning, and includes —

- (a) building works as defined in section 2(1) of the Building Control Act (Cap. 29);
- (b) any act of excavating earth, rock or other material (by whatever means) in connection with —

- (i) any work for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, structure, road, railway, bridge, viaduct, flyover, drain or sewer;
- (ii) any work for or relating to the laying, inspecting, repairing or renewing of any main, pipe, cable, fittings or other apparatus; or
- (iii) any soil investigation work;
- (c) any act of boring, dredging, jacking, levelling, piling or tunnelling on or under any land or street by any mechanical means;
- (d) the driving or sinking of any earth rod, casing or tube into the ground; and
- (e) any storage or placement of large construction equipment, construction materials and stockpiling of earth or heavy objects;

“specified person” means any one or more of the following:

- (a) the person who does or causes or permits to be done any of the works mentioned in subsection (1);
- (b) the owner or occupier of the land on which the works mentioned in subsection (1) are carried on.

(10) For the purposes of this section, a reference to a person or specified person does not include the Government, a public authority, or a person acting on behalf of the Government or the public authority.

### **Mandating use of common services tunnel**

**13.—(1)** Without limiting section 12, a supplier of utility services must not lay, place or install, or cause to be laid, placed or installed, on, under or over any public land within a common services tunnel area any utility services infrastructure without the written approval of an authorised officer.

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(2) An application for written approval under subsection (1) must be made in such manner as may be determined by the authorised officer from whom approval is sought.

(3) An application for written approval under subsection (1) may be granted subject to such conditions as the authorised officer considers fit.

(4) If an authorised officer considers that it is necessary for the supplier's utility services infrastructure, or any part of the supplier's utility services infrastructure, to be laid, placed or installed, or otherwise housed, within a common services tunnel of the common services tunnel area, the authorised officer may require, as a condition precedent for the grant of written approval under subsection (1), that the supplier of utility services execute an agreement for the use of the common services tunnel for purpose for laying, placing or installing, or otherwise housing, the utility services infrastructure with —

(a) the Government; or

(b) if the common services tunnel is owned by a person other than the Government, that person.

(5) A supplier of utility services who —

(a) contravenes subsection (1); or

(b) breaches any condition subject to which written approval was granted under subsection (3),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(6) In this section, “supplier of utility services” does not include the Government or a public authority.

## PART 5

## OFFENCES AND ENFORCEMENT

**Penalty for obstructing authorised officer, etc., in course of duty**

14. Any person who —

- (a) hinders, obstructs or delays an authorised officer, an authorised person or other person authorised by an authorised officer in the performance or execution of his or her duty or of any thing which he or she is empowered or required to do under this Act; or
- (b) interferes with any works authorised or required to be done by any authorised officer, authorised person or other person authorised by an authorised officer under this Act,

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 6 months or to both.

**Power to require information in respect of contraventions**

15.—(1) Where it appears to an authorised officer that there may have been a contravention of any provision of this Act, the authorised officer may serve an information notice to require any person who appears to the authorised officer to be acquainted with the circumstances of the case to furnish the authorised officer, within such time as may be specified in the notice, with information relating to that case which is in the possession or within the knowledge of that person.

(2) An information notice under subsection (1) is complied with by giving the required information in writing to the authorised officer.

(3) A person who fails to comply with any information notice under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

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(4) If any person —

- (a) makes any statement purporting to comply with a requirement of an information notice which the person knows to be false or misleading in a material particular; or
- (b) recklessly makes such a statement which is false or misleading in a material particular,

that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

### **Offences by corporations**

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

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

is evidence that the corporation had that state of mind.

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

- (a) who is —
  - (i) an officer of the corporation, or a member of the corporation (in the case where the affairs of the corporation are managed by its members); or
  - (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and
- (b) who —
  - (i) consented or connived, or conspired with others, to effect the commission of the offence;

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

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

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

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

- (a) Chapters 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 (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) 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 were a director of the corporation;



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“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.

### **Offences by unincorporated associations or partnerships**

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

- (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 an offence 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 involved in the management of the unincorporated association or the partnership and in a position to influence the conduct of that unincorporated association or that 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 offence;
  - (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the

commission of the offence by the unincorporated association or partnership; or

- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or the partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is that unincorporated association or that partnership, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof as that unincorporated association or that 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 (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

- (a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and  
(b) any person purporting to act in any such capacity;

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

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

### **Injunctions**

**18.**—(1) Where an authorised officer considers it necessary or expedient for any actual or apprehended breach of this Act to be restrained by injunction, the authorised officer may apply to the General Division of the High Court for an injunction, whether or not the authorised officer has exercised or is proposing to exercise any of his or her other powers under this Part or Part 4.

*[Act 40 of 2019 wef 02/01/2021]*

(2) On an application under subsection (1), the General Division of the High Court need not require from the authorised officer any undertaking in damages.

*[Act 40 of 2019 wef 02/01/2021]*

(3) On an application under subsection (1), the General Division of the High Court may grant such an injunction as it thinks appropriate for the purpose of restraining the breach.

*[Act 40 of 2019 wef 02/01/2021]*

### **Composition of offences**

**19.**—(1) An authorised officer may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) \$5,000.

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

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

## PART 6

### MISCELLANEOUS

#### **Appeal to Minister**

**20.**—(1) Any person who is aggrieved by any of the following decisions of an authorised officer may, within 14 days after the date on which notice of the decision is served on the person, appeal to the Minister:

- (a) the refusal to give written approval under section 10(1), 12(1) or 13(1);
- (b) an order under section 10(2), 11(2) or 12(5);
- (c) the imposition of any condition of written approval under section 12(2) or 13(3).

(2) Despite any appeal made under subsection (1), the order or decision appealed against takes effect and must be complied with unless otherwise ordered by the Minister.

(3) The Minister may, after considering the appeal, dismiss or allow the appeal, unconditionally or subject to such conditions as the Minister thinks fit.

(4) The Minister may, in considering an appeal under this section, give the appellant an opportunity to make representations in writing.

(5) The decision of the Minister in any appeal is final.

#### **Minister may designate others to hear appeals**

**21.**—(1) The Minister may designate any of the following persons to hear and determine, in the Minister's place, any appeal under section 20:

- (a) the Second Minister, if any, for his or her Ministry;
- (b) any Minister of State, including a Senior Minister of State, for his or her Ministry;

(c) any Parliamentary Secretary, including a Senior Parliamentary Secretary, to his or her Ministry.

(2) A reference to the Minister in section 20 includes a reference to a person designated under subsection (1).

### **Service of documents**

**22.**—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, to the individual's residential address or business address;
- (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or
- (f) by sending it by email to the individual's last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

- (a) by giving it to any partner or other like officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

- (c) by sending it by fax to the fax number used at the partnership's business address; or
  - (d) by sending it by email to the partnership's last email address.
- (4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —
  - (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association, or the limited liability partnership's manager;
  - (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;
  - (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or
  - (d) by sending it by email to the body corporate's or unincorporated association's last email address.
- (5) Service of a document under this section takes effect —
  - (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;
  - (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person; and
  - (c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).
- (6) A document may be served on a person under this Act by email only with that person's prior written consent.
- (7) This section does not apply to documents to be served in proceedings in court.

(8) In this section —

“business address” means —

- (a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or
- (b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;

“last email address” means —

- (a) the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act; or
- (b) the last email address of the addressee concerned known to the person giving or serving the document;

“residential address” means an individual’s usual or last known place of residence in Singapore.

### **Protection from personal liability**

**23.** No liability shall lie personally against an authorised officer, an authorised person, or other person authorised by an authorised officer who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act.

### **Exemption**

**24.** The Minister may, by order in the *Gazette*, exempt any person or land, or any class of persons or land, from all or any of the provisions of this Act, either generally or in a particular case and subject to such conditions as the Minister may impose.

### **Regulations**

**25.—(1)** The Minister may make regulations for carrying out or giving effect to the purposes and provisions of this Act.

(2) Without limiting subsection (1), the Minister may make regulations for or with respect to any of the following matters:

- (a) the procedure for appeals under this Act;
    - (b) the fees and charges to be paid in respect of approvals and applications for approval under this Act, and otherwise in connection with the administration of this Act, and the waiver, reduction and refund of such fees and charges.
  - (3) The regulations —
    - (a) may be of general or specific application; and
    - (b) may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$5,000 or with imprisonment for a term not exceeding 6 months or with both.
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