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The following Act was passed by Parliament on 10 May 2021 and assented to by the President on 31 May 2021:—

LAND BETTERMENT CHARGE ACT 2021

(No. 11 of 2021)

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REPUBLIC OF SINGAPORE

No. 11 of 2021.

I assent.

ⓁS

HALIMAH YACOB,
President.
31 May 2021.

An Act to provide for the imposition and collection of a tax on the increase in the value of land resulting from a chargeable consent given in relation to land, and to make consequential and related 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 Land Betterment Charge Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

General interpretation

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

“appointed day” means the date of commencement of section 6;

“authorised development”, for any land, means a development of the land —

(a) authorised under —

(i) the Planning Act 1998;

(ii) the predecessor Act; or

(iii) any other written law on planning and land use, which has been at any time in force in Singapore and corresponds to the Planning Act 1998; or

(b) effected or carried out pursuant to any written approval granted under any written law mentioned in paragraph (a)(iii) before 1 February 1960,

and includes a development of any land that is deemed authorised without express written permission;

“authorised officer”, in relation to any provision of this Act or its subsidiary legislation, means an individual who is appointed as an authorised officer under section 50(1) for the purposes of that provision;

“Authority” means the public authority called the Singapore Land Authority established by the Singapore Land Authority Act 2001;

“building” includes a structure and a part of a building;

“chargeable consent” has the meaning given by section 3;

“charitable institution” means —

- (a) a charity;
- (b) a trust of which all the beneficiaries are charities; or
- (c) a unit trust scheme in which all the unit holders are charities;

“charitable purposes” and “charity” have the meanings given by section 2(1) of the Charities Act 1994;

“Chief Valuer” means the Chief Valuer appointed under section 2A of the State Lands Act 1920, and includes any individual authorised by the Chief Valuer to perform the functions, or otherwise act on behalf, of the Chief Valuer under this Act;

“competent authority” means any competent authority appointed under section 5 of the Planning Act 1998 to be responsible for the operation of Part 3 of that Act, and includes any individual authorised under section 5(2) of that Act to perform any of those functions conferred on the competent authority;

“concessional State title” means a State title for any land that —

- (a) is granted with a restrictive covenant binding the owner of the land to refrain from using the land in a particular way, or from developing that land to an intensity —
 - (i) that is lower than the maximum use or maximum intensity allowed under the provisions of the Master Plan in force at the time of granting; or
 - (ii) where the provisions of the Master Plan in force at the time of granting do not prescribe any use or maximum intensity allowed for that land; and

(b) contains an express term binding the owner of the land under the State title to pay the Government, and entitling the Government to demand, an additional premium for the land, if the land is —

(i) developed by or on behalf of the owner beyond a particular intensity specified in the State title;
or

(ii) otherwise used by or on behalf of the owner in a particular way (such as but not limited to strata subdivision) specified in the State title;

“conduct” means any act or omission, or any series of acts or omissions, or both;

“conservation area” has the meaning given by section 2 of the Planning Act 1998;

“conservation permission” means permission required by section 12(2) of the Planning Act 1998 to carry out or permit the carrying out of any works within a conservation area;

“controlled activity”, for any land that is the subject of a State title, means any of the following conduct:

(a) to keep and maintain the composition of individuals who may be licensed or otherwise allowed by an owner of the land to enter and use the land according to a composition described in the State title;

(b) to be or not be a corporation or partnership or an unincorporated association the members of which are of a composition described in the State title;

(c) to be or not be a corporation or partnership or an unincorporated association the officers of which are of a composition described in the State title;

“controlled activity restrictive covenant”, for any land, means a restrictive covenant expressed in a State title for the land, binding the owner of the land under the State title to carry on

or not to carry on any controlled activity described in the State title;

“deemed authorised without express written permission” means a development authorised by notification in the *Gazette* made under section 21(6) of the Planning Act 1998;

“deferment determination” means a determination made under section 20 and that is in force, and includes so much of a deferment determination that is in force after it is cancelled in part;

“designated valuer” means the Chief Valuer or an individual appointed under section 10(2);

“development” has the meaning given by section 3 of the Planning Act 1998;

“development control restrictive covenant”, for any land, means a restrictive covenant expressed in a State title for the land, binding the owner of the land under the State title to not carry out any development of the land described in the State title, being a development which does not involve any subdivision of the land;

“directly allotted State title” means a State title granted for consideration without a tender or an auction;

“engage in conduct” means to do an act or omit to do an act;

“functions” includes powers and duties;

“its subsidiary legislation” means any Regulations, order or other subsidiary legislation made under this Act;

“land” means —

- (a) the surface of any defined parcel of the earth in Singapore;
- (b) any parcel of airspace or subterranean space within Singapore, whether or not held apart from the surface of the earth in Singapore; or

(c) any foreshore in Singapore,

and includes a space of any shape below, on or above the surface of the earth, or partly below and partly above the surface of the earth, in Singapore the dimensions of which are delineated;

“land betterment charge” means the tax imposed under section 6 and calculated in the manner fixed by or under this Act;

“Land Planning Minister” means the Minister charged with the responsibility for land and urban development;

“liability order” means a liability order given under section 25 and that has effect;

“limited liability partnership” has the meaning given by the Limited Liability Partnerships Act 2005;

“Master Plan” has the meaning given by the Planning Act 1998 and includes any Certified Interpretation Plan prepared and certified by the competent authority under section 7 of that Act;

“material interest” has the meaning given by section 4;

“occupier”, for any land, includes any person in actual occupation of the land or any person having the charge, management or control of the land either on the person’s own account or as an agent of another person, but does not include a lodger;

“officer” —

(a) in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(i) any person purporting to act in any such capacity; and

(ii) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation; and

(b) 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 —

(i) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(ii) any person purporting to act in any such capacity;

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

“penalty tax” means the penalty tax imposed under Division 2 of Part 6;

“planning permission” means permission required by section 12(1) of the Planning Act 1998 to carry out or permit the carrying out of any development of any land outside a conservation area;

“predecessor Act”, in relation to the Planning Act 1998, means the Planning Act (Cap. 232, 1990 Ed.) repealed by the Planning Act 1998;

“provisional permission” means provisional permission granted under section 17(1) of the Planning Act 1998;

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

“rectification order” means a rectification order given under section 40;

“Regulations” means any regulations made by the Authority under section 64, or by the Minister under section 65;

“relevant point in time” has the meaning given by section 8(3) and (4);

“restrictive covenant” means a reservation, restriction, covenant, an easement or a right in the nature of an easement, that is expressed in a State title for any land, and binding the owner of the land under the State title —

- (a) to refrain from using the land subject to the State title in a particular way, or from doing a particular thing in relation to that land;
- (b) to not sublet, subdivide or otherwise deal with the land, or part of the land, without the permission of the Authority; or
- (c) to construct, replace or maintain, or limit the type, style or proportion of building materials that may be used in the construction, replacement or maintenance of, any building on that land,

and includes a controlled activity restrictive covenant, but excludes any reservation, restriction, covenant, easement or right in the nature of an easement in a State title that is imposed or created by or under the provisions of an Act;

“revised liability order” has the meaning given by section 27;

“special condition” means a reservation, restriction or covenant expressed in a directly allotted State title, requiring the initial owner of the land that is the subject of the State title to refrain from abandoning or changing the use of the land in a particular way, failing which the lessor is entitled to demand the surrender of the land;

“State title” means any of the following issued or granted (whenever) in respect of land by or on behalf of the Crown or the East India Company, or under the State Lands Act 1920 or any written law repealed by that Act:

- (a) any grant in fee simple;
- (b) any grant of an estate in perpetuity;

(c) any State lease (of whatever tenure),

but excludes any tenancy or like agreement for a term of less than 10 years, and any temporary occupation licence, in respect of land;

“strata subdivision” has the meaning given by section 3(1) of the Land Titles (Strata) Act 1967;

“subdivision”, for any land, means the division of the land into 2 or more parts which can be conveyed, assigned, transferred, subleased or otherwise disposed of, and includes a strata subdivision of any building after completion of the building comprised in a development of the land;

“subdivision control restrictive covenant”, for any land, means a restrictive covenant expressed in a State title for the land, binding the owner of the land under the State title to not carry out any subdivision of the land described in the State title, with or without involving any development of the land;

“Table of Rates method” has the meaning given by section 11;

“taxable person” means a person who may be liable under section 15(1) for a land betterment charge;

“trustee” includes, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court or by operation of law, any of the following:

(a) an executor or administrator, a guardian, committee, receiver or liquidator;

(b) every person having or taking upon himself, herself or itself the administration or control of land affected by any express or implied trust or acting in any fiduciary capacity, or having the possession, control or management of land of a person under legal or other disability;

“unincorporated association” means a society or body unincorporate which, under any written law, may sue or be sued, or hold property, in the name of an officer of the society or body duly appointed for that purpose;

“valuation”, in relation to land, means a determination of an amount that is the value of the land made in accordance with the provisions of this Act;

“Valuation method” has the meaning given by section 10;

“vary”, in relation to a restrictive covenant, includes to extinguish the restrictive covenant;

“written permission” means a planning permission or conservation permission.

(2) In this Act —

“Charities Act 1994” includes the Charities Act (Cap. 37, 2007 Ed.) until it is revised and citable by the short title “the Charities Act 1994”;

“Criminal Procedure Code 2010” includes the Criminal Procedure Code (Cap. 68, 2012 Ed.) until it is revised and citable by the short title “the Criminal Procedure Code 2010”;

“Interpretation Act 1965” includes the Interpretation Act (Cap. 1, 2002 Ed.) until it is revised and citable by the short title “the Interpretation Act 1965”;

“Land Titles (Strata) Act 1967” includes the Land Titles (Strata) Act (Cap. 158, 2009 Ed.) until it is revised and citable by the short title “the Land Titles (Strata) Act 1967”;

“Limited Liability Partnerships Act 2005” includes the Limited Liability Partnerships Act (Cap. 163A, 2006 Ed.) until it is revised and citable by the short title “the Limited Liability Partnerships Act 2005”;

“Penal Code 1871” includes the Penal Code (Cap. 224, 2008 Ed.) until it is revised and citable by the short title “the Penal Code 1871”;

“Planning Act 1998” includes the Planning Act (Cap. 232, 1998 Ed.) until it is revised and citable by the short title “the Planning Act 1998”;

“Singapore Land Authority Act 2001” includes the Singapore Land Authority Act (Cap. 301, 2002 Ed.) until it is revised

and citable by the short title “the Singapore Land Authority Act 2001”;

“State Lands Act 1920” includes the State Lands Act (Cap. 314, 1996 Ed.) until it is revised and citable by the short title “the State Lands Act 1920”.

Meaning of “chargeable consent”

3.—(1) In this Act, a reference to “chargeable consent” in relation to any land is a reference to —

- (a) the grant, on or after the appointed day, of a planning permission or conservation permission in relation to the land, as a result of which a person is entitled to carry out a development of the land;
- (b) a varying by the Authority, on or after the appointed day, of any of the following restrictive covenants in a State title or a concessional State title relating to the land:
 - (i) a development control restrictive covenant, as a result of which a person is entitled to carry out a development of the land without any subdivision of the land that is the subject of the development control restrictive covenant;
 - (ii) a subdivision control restrictive covenant, as a result of which a person is entitled to carry out a subdivision of the land (with or without any development of the land) that is the subject of the subdivision control restrictive covenant;
 - (iii) a controlled activity restrictive covenant, as a result of which a person is entitled to carry on or not carry on, or to stop carrying on, a controlled activity that is the subject of the controlled activity restrictive covenant; or
- (c) the accepting of a lodgment, on or after the appointed day, of any plans for a development of the land deemed authorised without express written permission.

(2) A chargeable consent by way of varying a restrictive covenant in a State title relating to land must not be regarded as given until —

- (a) the date of the deed of release, or the date a contract or an agreement, for varying the restrictive covenant is entered into between the Authority and the owner of the land, whichever date is earlier;
- (b) where the deed of release, or the contract or agreement, for varying the restrictive covenant is undated, the date on which the deed, contract or agreement is executed by the Authority, whichever date is earliest; or
- (c) where the deed of release, or the contract or agreement, for varying the restrictive covenant is subject to any condition precedent for the variation to take effect, the date when all those conditions are satisfied.

(3) However, where a person is not entitled to carry out a development of any land except as a result of more than one of the following events:

- (a) a varying of a restrictive covenant in a State title relating to the land and the restrictive covenant is not any of those mentioned in subsection (4)(a);
- (b) the grant of a planning permission or conservation permission in relation to the land;
- (c) the accepting of a lodgment of any plans for a development of the land deemed authorised without express written permission,

then despite subsections (1) and (2), a chargeable consent must be regarded as given in relation to the development of the land upon the happening of the earliest of those events, and all other subsequent chargeable consents must be disregarded for the purposes of this Act.

(4) Where a person is not entitled to carry out a development of any land except as a result of more than one of the following events:

- (a) a varying of any of the following restrictive covenants in a State title relating to the land:

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- (i) a special condition in a directly allotted State title relating to the land;
 - (ii) a restrictive covenant in a concessional State title relating to the land;
 - (iii) a controlled activity restrictive covenant in a State title relating to the land;
 - (iv) a subdivision control restrictive covenant in a State title relating to the land;
- (b) the grant of a planning permission or conservation permission in relation to the land;
 - (c) the accepting of a lodgment of any plans for a development of the land deemed authorised without express written permission,

then despite subsections (1) and (2), only the varying of a restrictive covenant mentioned in paragraph (a) is regarded as the giving of chargeable consent in relation to the development of the land, and the happening of events in paragraphs (b) and (c) must be disregarded for the purposes of this Act.

Meanings of “material interest” and “owner”

4.—(1) For the purposes of this Act, a person is not an owner of any land unless the person has a material interest in the land.

(2) Subject to subsection (3), a “material interest” in any land means a legal interest in the land which is —

- (a) an estate in fee simple;
- (b) an estate in perpetuity;
- (c) a leasehold estate under a State title of whatever tenure; or
- (d) subject to subsection (3), an interest in the land entitling the person to receive rent of the land (whether on the person’s own account or as trustee for any other person or as a receiver) —
 - (i) if the land is let to a tenant for more than 10 years; or

(ii) if the land is in fact let for more than 10 years, and includes a mortgagee in possession.

(3) For the purposes of subsection (2) —

- (a) the fact that the term of a lease may be extended pursuant to an option exercisable wholly at the lessee's discretion must be taken into consideration in determining whether the term of the lease exceeds any periods specified in subsection (2)(d); and
- (b) the fact that a lease for a specified period of time is determinable on the happening of an event within that time must not be taken into consideration in determining the term of the lease.

(4) For the purposes of this Act, a person must not be regarded as having a material interest in any land by reason only that the person has purchased, from a developer of a development for which planning permission is granted for strata division after completion of any building comprised in the development, an estate or interest in a lot or proposed lot in the development before that completion.

(5) In subsection (4), “developer” means the person for whom or on whose behalf any development of land is carried out.

Purpose of Act

5. The purpose of this Act is to define and impose a tax on the increase in the value of land resulting from a chargeable consent given in relation to the land —

- (a) that ensures the return to the community of an appropriate proportion of economic benefits from the grant of rights to develop or otherwise use land;
- (b) that affords certainty and transparency through rules and processes for calculating most land betterment charges that refer to fixed rates or formulae without need for valuation;
- (c) that would promote land development activity in Singapore and support outcomes which accord with the land planning and urban development system and

productivity enhancement measures for the construction industry in Singapore; and

- (d) that will promote or encourage environmentally sustainable development or use of land that balances the interests of current and future generations in Singapore.

PART 2

LAND BETTERMENT CHARGE

Land betterment charge is tax

6. A tax called a land betterment charge is charged in accordance with the provisions of this Act in respect of each chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land.

Tax is on increase in value of land

7.—(1) A land betterment charge payable in respect of any chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land is on the increase in the value of the land likely to accrue from the giving of the chargeable consent that is leviable under this Act.

(2) For the purposes of this Act, the leviable increase in the value of any land likely to accrue from the giving of a chargeable consent in relation to a development or subdivision of, or a controlled activity with respect to, the land is the prescribed percentage according to section 8 of the increase in the value of the land likely to accrue from the giving of the chargeable consent, the amount of which must be ascertained in accordance with this Act.

Leviable increase in value of land

8.—(1) Subject to subsection (2), the prescribed percentage of the increase in the value of any land likely to accrue from the giving of a chargeable consent in relation to a development of the land is any percentage prescribed by Regulations —

- (a) made under section 65; and

- (b) in force at the relevant point in time pertaining to that chargeable consent.
- (2) In the case of a chargeable consent given in relation to —
- (a) a development or a subdivision of any land by way of varying a special condition in a directly allotted State title relating to the land, but not the following:
- (i) a development of land without a material change of use of the land as described in the directly allotted State title;
 - (ii) a directly allotted State title (but not a concessional State title) granted to a public authority; or
- (b) a development or a subdivision of, or a controlled activity with respect to, any land by way of varying any of the following restrictive covenants in a State title relating to the land:
- (i) a restrictive covenant in a concessional State title;
 - (ii) a controlled activity restrictive covenant;
 - (iii) a subdivision control restrictive covenant,
- the prescribed percentage of the increase in the value of the land likely to accrue from the giving of the chargeable consent is a percentage that —
- (c) is higher than the percentage prescribed for the purposes of subsection (1); and
- (d) is prescribed by Regulations —
- (i) made under section 65; and
 - (ii) in force at the relevant point in time pertaining to that chargeable consent.
- (3) In the case of any chargeable consent given in relation to a development of any land by way of any of the following:
- (a) a planning permission or conservation permission;

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- (b) a varying of a restrictive covenant in a State title (with or without a special condition) or a concessional State title relating to the land that is neither —
- (i) a controlled activity restrictive covenant; nor
 - (ii) a subdivision control restrictive covenant,

the relevant point in time pertaining to the chargeable consent is, for the purposes of this Act —

- (c) the date a planning permission or conservation permission (as the case may be) is granted in respect of the development of the land to which the permission relates, where —
- (i) no provisional permission is granted with respect to the development of the land; and
 - (ii) no lodgment is made of any plans for development that may be deemed authorised without express written permission;
- (d) the date where provisional permission is granted with respect to the development of the land — where any provisional permission is granted with respect to the development and final permission is granted, for that same development of land under section 17(4) of the Planning Act 1998, following not more than one extension of the provisional permission; or
- (e) the date where provisional permission granted with respect to the development of the land is last extended — where any provisional permission is granted with respect to the development and final permission is granted, for that same development of land under section 17(4) of the Planning Act 1998, following 2 or more extensions of the provisional permission.

(4) For the purposes of this Act, the relevant point in time pertaining to any chargeable consent not mentioned in subsection (3) is whichever of the following dates that is applicable:

- (a) for a chargeable consent that is accepting a lodgment of any plans for a development of the land deemed authorised without express written permission — the date of the acceptance of the lodgment;
 - (b) for a chargeable consent that is varying a restrictive covenant in a State title that is —
 - (i) a controlled activity restrictive covenant; or
 - (ii) a subdivision control restrictive covenant,the date the chargeable consent is given.
- (5) This section is subject to Part 3.

Ascertaining amount of land betterment charge

9.—(1) Subject to subsection (3), the amount of the land betterment charge in respect of any chargeable consent given in relation to a development or a subdivision of any land not mentioned in subsection (2) is the amount ascertained by the Table of Rates method.

(2) The amount of the land betterment charge in respect of a chargeable consent given in relation to —

- (a) a development or a subdivision of any land by way of varying a special condition in a directly allotted State title relating to the land, but not the following:
 - (i) a development of land without a material change of use of the land as described in the directly allotted State title;
 - (ii) a directly allotted State title (but not a concessional State title) granted to a public authority; or
- (b) a development or a subdivision of, or a controlled activity with respect to, any land by way of varying any of the following restrictive covenants in a State title relating to the land:
 - (i) a restrictive covenant in a concessional State title;
 - (ii) a controlled activity restrictive covenant;

(iii) a subdivision control restrictive covenant,
is the amount ascertained by the Valuation method.

(3) The amount of the land betterment charge in respect of any chargeable consent given in relation to a development of any land as described in subsection (1) may be ascertained by the Valuation method in lieu of the Table of Rates method where —

- (a) all taxable persons concerned elect, before a liability order is given to the taxable persons, for the Valuation method to be so used; or
- (b) the Table of Rates method is inapplicable to the particular development.

(4) Any election under subsection (3)(a) must —

- (a) be in writing by or on behalf of the taxable person concerned;
- (b) be in a prescribed form (if prescribed); and
- (c) be given to the Authority within a prescribed period after the relevant point in time for the chargeable consent concerned, or such extension of that time as allowed by the Authority in any particular case.

(5) Any election under subsection (3)(a) is irrevocable.

Valuation method

10.—(1) The Valuation method of ascertaining the amount of the land betterment charge in respect of any chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land involves a valuation by a designated valuer according to section 8(1) or (2) and Part 3 (whichever is applicable) of the increase in the value of the land likely to accrue from the giving of the chargeable consent.

(2) For the purposes of this Act, the Chief Valuer or another individual may be appointed by the Authority to ascertain the amount of land betterment charge by the Valuation method.

(3) However, no land betterment charge ascertained using the Valuation method is payable in respect of any chargeable consent in relation to a development or subdivision of, or a controlled activity with respect to, any land where the price the land might reasonably obtain if sold at the relevant point in time pertaining to the chargeable consent, does not exceed the price if sold before that relevant point in time.

Table of Rates method

11.—(1) The Table of Rates method for ascertaining the amount of the land betterment charge in respect of any chargeable consent in relation to a development of any land involves a calculation by —

- (a) first, deriving the post-chargeable valuation of the land and the pre-chargeable valuation of the land using the rates and methods prescribed by Regulations made under section 65 or Part 3; and
- (b) then, subtracting the pre-chargeable valuation of the land from the post-chargeable valuation of the land.

(2) However, no land betterment charge ascertained using the Table of Rates method is payable in respect of any chargeable consent in relation to a development of any land where the post-chargeable valuation of the land does not exceed the pre-chargeable valuation.

(3) Subject to Part 3, for the purposes of assessing any land betterment charge payable in respect of a chargeable consent given in relation to any land, the pre-chargeable valuation of the land must take into account the following:

- (a) the last authorised development of the same land, where the following were paid or payable:
 - (i) all development charges earlier paid under the Planning Act 1998 or the predecessor Act;
 - (ii) all land betterment charges earlier paid under this Act;
 - (iii) all penalty tax earlier paid under this Act;

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- (b) any restrictive covenant expressed in a State title for the land, binding the owner of the land under the State title —
- (i) to refrain from using or developing the land in a particular way, or from doing a particular thing in relation to that land;
 - (ii) to not sublet, subdivide or otherwise deal with the land, or part of the land, without the permission of the Authority; or
 - (iii) to construct, replace or maintain, or limit the type, style or proportion of building materials that may be used in the construction, replacement or maintenance of, any building on that land,
- if comparably higher than paragraph (a);
- (c) any exemption or remission from any liability to pay in connection with the last authorised development of the same land —
- (i) any development charge under the Planning Act 1998 or the predecessor Act; or
 - (ii) any land betterment charges under this Act;
- (d) any concessionary relief under section 13 from any liability to pay any land betterment charges in connection with the last authorised development of the same land;
- (e) the absence of any liability to pay any tax mentioned in paragraph (a) in connection with the last authorised development of the same land.

(4) However, the following must be disregarded in determining the pre-chargeable valuation of any land:

- (a) any development of the land which is not an authorised development;
- (b) any use of the land which could be restrained by any court or is contrary to law;

- (c) any development of the land authorised by a planning permission or conservation permission granted for a specified period not exceeding 10 years;
- (d) any development of the land where the planning permission or conservation permission granted for it has lapsed under section 20 of the Planning Act 1998 except to the extent that any of the following were paid for that development:
 - (i) development charges earlier payable under the Planning Act 1998 or the predecessor Act;
 - (ii) land betterment charges payable under this Act;
- (e) any development of land for use as a hotel or part of a hotel authorised by the grant of written permission under the predecessor Act between 18 April 1968 and 31 December 1969 (both dates inclusive) on any prescribed land if —
 - (i) the use of the development as a hotel or part of a hotel has ceased; or
 - (ii) the application for a planning permission or conservation permission being considered by the competent authority for the land is for development of the land for a use other than as a hotel;
- (f) any development of land, being a development in respect of which development charge was exempted or remitted under the Planning Act 1998, if —
 - (i) any term of an exemption or a remission under that Act provides that the development (for which development charge was exempted or remitted) must be disregarded for the Development Baseline under that Act; or
 - (ii) any term of the exemption or remission under that Act has ceased to be or is not complied with;
- (g) any development of land, being a development in respect of which concessionary relief under section 13 was applied, if —

- (i) any term of the concessionary relief provides that the development must be disregarded for the pre-chargeable valuation of the land; or
- (ii) any term of the concessionary relief has ceased to be or is not complied with;

(h) any matter mentioned in subsection (5).

(5) Subject to subsection (2) and Part 3, for the purposes of assessing any land betterment charge payable in respect of a chargeable consent given in relation to any land, the post-chargeable valuation of the land must take into account whichever of the following that the land may be put to:

- (a) the development of the land a person is entitled to carry out on the land as a result of the giving of the chargeable consent;
- (b) the entitlement to carry on or not carry on, or the release from carrying on, a controlled activity as a result of varying a controlled activity restrictive covenant under the chargeable consent given.

(6) However, any development of land previously authorised by a planning permission or conservation permission granted for a specified period not exceeding 10 years must be disregarded in determining the post-chargeable valuation of the land for the purposes of assessing any land betterment charge payable in respect of a current chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, the land.

PART 3

CONCESSIONS AND RELIEF

General exemption

12.—(1) The Minister may, by order in the *Gazette*, exempt any person or class of persons 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.

(2) Every order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.

Concessionary relief for planning objectives

13.—(1) The Land Planning Minister may, after consulting the Minister, provide by order in the *Gazette* for concessionary relief, for a period or permanently, from the whole or part of any land betterment charge for chargeable consent given in relation to —

- (a) a development or subdivision of any land within any land, or land in any area, specified in the order;
- (b) a development of any land within any development or class of developments specified in the order; or
- (c) a development or subdivision of any land within any area or other extent of development specified in the order,

if and so far as the relief appears to the Land Planning Minister to be necessary or expedient.

(2) However, the Land Planning Minister may only make an order under subsection (1) if satisfied that the subject of the order is not covered by section 12 and —

- (a) will advance an integrated or a more optimal use of land in Singapore or any part of Singapore, and one of the following applies:
 - (i) the desirability of the proposed development or subdivision of any land in achieving economic development or maintaining the cultural, economic, physical and social wellbeing of the people of Singapore and the community in the area concerned;
 - (ii) there is an appropriate balance between potential short-term and long-term environmental effects of the proposed development or subdivision of any land or any adverse environmental effects of development or subdivision (climate change and urban congestion, for example) that may result are otherwise avoided or minimised;

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- (iii) the desirability of funding (in whole or part) from any land betterment charge relating to the proposed development or subdivision of any land or other activity, the actual and expected estimated total cost of infrastructure and amenities required to support the improvement of the area in which the development or subdivision is to take place, taking into account other actual and expected sources of funding;
 - (b) will promote or encourage the greater use of technology or other techniques and improvements in the construction process that enhance productivity in the construction industry; or
 - (c) will promote or encourage environmentally sustainable development of land that balances the interests of current and future generations in Singapore.
- (3) An order under subsection (1) may —
- (a) provide for a reduction of the land betterment charge chargeable, such as —
 - (i) by a reduced percentage of the increase in the value of the land likely to accrue from the giving of a chargeable consent;
 - (ii) by specifying a higher pre-chargeable valuation for the development concerned; or
 - (iii) by providing for an off-set against the land betterment charge payable;
 - (b) prescribe that the concessionary relief contained in the order is subject to conditions related to the matters in subsection (2)(a), (b) or (c), including conditions prohibiting or restricting the disposal of or dealing with land for a period; and
 - (c) provide different concessionary reliefs for land, developments and areas of different descriptions and for different circumstances.

(4) Section 65 applies with such modifications as are required for the making of an order under subsection (1).

(5) Where an order is made under this section and it is applicable to any land, development of land or chargeable consent described in the order, then for the purposes of this Act, any reference to —

- (a) the prescribed percentage of the increase in the value of the land likely to accrue from the giving of the chargeable consent in relation to the land or a development or subdivision of the land is as specified or described in the order; and
- (b) the pre-chargeable valuation of the land is as specified or described in the order.

(6) Every order made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

Remission

14.—(1) Where it is shown to the satisfaction of the Minister —

- (a) that a natural person liable to pay any land betterment charge has suffered such a loss, or is in such circumstances, that the exaction of the full amount of land betterment charge would entail serious hardship;
- (b) that payment of any land betterment charge payable or to become payable is likely to cause substantial hardship to a taxable person; or
- (c) that payment of any land betterment charge payable or to become payable by a particular taxable person is not compatible with the purposes of this Act having regard to the peculiar facts of the case,

the Minister may remit the payment of the land betterment charge, either wholly or in part.

(2) The Minister may delegate the exercise of all or any of the powers conferred upon the Minister under subsection (1) to the Authority, an employee of the Authority or a public officer, and any

reference in subsection (1) to the Minister includes a reference to the Authority or that employee or public officer, as the case may be.

(3) Any delegation under subsection (2) may be general or in a particular case and may be subject to such conditions or limitations as set out in this Act or as the Minister may specify.

(4) This section also applies to any interest imposed under section 38 and any penalty tax payable under Part 6.

PART 4

LIABILITY

Division 1 — Taxable persons

Who is liable to pay land betterment charge

15.—(1) A land betterment charge in respect of a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land is payable —

- (a) by every person who, when the chargeable consent is given, is an owner of the land;
- (b) by every person who gives an assumption of liability notice under section 16 that the person assumes liability to pay the land betterment charge in place of any person in paragraph (a); or
- (c) by every transferee to whom a deferred liability to pay the land betterment charge is transferred under section 23.

(2) Where a taxable person becomes liable to pay a land betterment charge for a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land, the person's liability continues despite the taxable person disposing of the land or other changes in ownership of the land.

- (3) This section is subject to the making of any of the following:
- (a) a deferment determination or a transfer of deferred liability under section 20 or 23, as the case may be;
 - (b) an exemption under section 12;

(c) a remission under section 14.

Assumed liability

16.—(1) A person who wishes to assume liability to pay any land betterment charge for a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land may give an assumption of liability notice to the Authority —

- (a) at any time before, on or after a liability order is given with respect to the chargeable consent; but
- (b) not after a revised liability order is given with respect to the same chargeable consent.

(2) An assumption of liability notice must —

- (a) be in writing and in a form required by the Authority; and
- (b) identify the person in place of whom liability to pay the land betterment charge is being assumed by that notice (called the default taxable person).

(3) An assumption of liability notice is valid if it complies with subsection (2).

(4) A person is deemed to have assumed liability on the day on which the Authority receives and acknowledges receipt of a valid assumption of liability notice from that person.

(5) On receiving a valid assumption of liability notice, the Authority must send an acknowledgment of its receipt to the person who assumed liability.

(6) An assumption of liability notice given in accordance with this section is irrevocable.

(7) A person who assumes liability in accordance with this section is liable to pay an amount of the land betterment charge equal to the amount that the default taxable person would have been liable to pay if not for this section; and the default taxable person then ceases to be liable to pay that amount of the land betterment charge.

Apportionment of liability according to material interests

17.—(1) Where no one has, in accordance with section 16, assumed liability to pay any land betterment charge for a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land, the liability to pay the land betterment charge must be apportioned between each material interest in the land.

(2) Before the Authority apportions liability between material interests in any land and gives a liability order under Part 5, the Authority may require each owner of the land to provide —

- (a) information about the owner's material interest in the land; and
- (b) such other information in the owner's possession or control which the Authority considers relevant to assist it in apportioning liability.

Joint liability

18.—(1) Where 2 or more persons are joint owners of a material interest in land, they are each jointly and severally liable to pay any land betterment charge in respect of that material interest in that land.

(2) Where 2 or more persons have, in accordance with section 16, assumed liability to pay any land betterment charge for a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land, they are each jointly and severally liable to pay the land betterment charge payable.

Interests held on trust

19.—(1) Where a material interest in any land is held by a person as a bare trustee, this Act applies as if that interest were vested in, and the acts of the trustee in relation to it were the acts of, the person for whom that person is the trustee.

(2) Where the trustees of a settlement are liable to pay land betterment charge, any amount due may be recovered from any one or more of the responsible trustees.

(3) The responsible trustees in relation to a material interest in the land are the persons who were trustees on the day on which chargeable consent is given in relation to the land, and any person who subsequently becomes a trustee.

(4) In this section —

“bare trust” means a trust under which property is held by a person as trustee —

- (a) for a person who is absolutely entitled as against the trustee, or who would be so entitled but for being a minor or other person under a disability; or
- (b) for 2 or more persons who are or would be jointly so entitled,

and includes a case in which a person holds property as nominee for another;

“settlement” means a trust which is not a bare trust.

Division 2 — Deferment determinations

Deferment of liability by deferment determination

20.—(1) A taxable person may apply to the Authority for a determination deferring payment of any land betterment charge payable by the taxable person (called in this Act a deferment determination).

(2) The Authority may make a deferment determination deferring payment of any land betterment charge payable by a taxable person in respect of a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land if the Authority is satisfied that —

- (a) the taxable person is a charitable institution and the land will be used wholly or mainly for charitable purposes (whether of the taxable person or of that person and other charitable institutions); or
- (b) the taxable person and the land satisfy any other prescribed criteria in Regulations made under section 65.

(3) However, for the purposes of subsection (2)(a) and the disqualifying event under section 22(2)(b), land must not be regarded as used wholly or mainly for charitable purposes where the material interest in the land is owned by the taxable person jointly with a person who is not a charitable institution.

(4) For the purposes of subsection (2) and the disqualifying event under section 22(2)(b), use of any land for charitable purposes includes leaving it unoccupied.

(5) A deferment determination may do either or both of the following:

- (a) defer the liability of the taxable person or a taxable person to pay all or part of the total amount of the land betterment charge payable as at the date of the determination;
- (b) defer the obligation of the taxable person or a taxable person to pay all or part of each amount of the land betterment charge to become payable while the deferment determination is in force.

(6) Where the Authority makes a deferment determination, the Authority must give a copy of the deferment determination to the taxable person to whom the deferment determination relates.

Effect of deferment determination

21.—(1) A deferment determination that defers a taxable person's liability to pay all or part of the total amount of any land betterment charge payable has the following effect:

- (a) the taxable person's liability to pay the amount of land betterment charge as at the date of the deferment determination is reduced in accordance with that determination;
- (b) the person becomes indebted to the Authority for the amount by which the liability is reduced.

(2) A deferment determination that defers a taxable person's obligation to pay all or part of each amount of any additional land betterment charge to become payable while the deferment determination is in force has the following effect:

- (a) immediately after each amount of the additional land betterment charge becomes payable, the person's liability to pay the amount of the additional land betterment charge is reduced in accordance with the deferment determination;
 - (b) the person becomes indebted to the Authority for the amount by which the liability is reduced.
- (3) If a person is indebted to the Authority for an amount referred to in subsection (1)(b) or (2)(b), the amount is not recoverable by the Authority while the deferment determination is in force.

Cancelling deferment determination

22.—(1) This section applies if a deferment determination is made and the Authority is satisfied that a disqualifying event in subsection (2) or (3) (as the case may be) occurs.

(2) Where a taxable person's liability to pay any land betterment charge is reduced by or under a deferment determination because of section 20(2)(a), the disqualifying event is any of the following:

- (a) the taxable person ceases to be a charitable institution;
- (b) the whole or part of the land in respect of which the deferred land betterment charge relates —
 - (i) is disposed of or transferred to another person;
 - (ii) ceases to be occupied by or under the control of the taxable person; or
 - (iii) ceases to be used wholly or mainly for charitable purposes;
- (c) any other disqualifying event prescribed in Regulations made under section 65 for such a deferment determination takes place.

(3) Where a taxable person's liability to pay any land betterment charge is reduced by or under a deferment determination because of section 20(2)(b), the disqualifying event is any of the following:

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- (a) the taxable person ceases to satisfy the criteria prescribed in Regulations made under section 65 for the purposes of section 20(2)(b);
 - (b) the whole or part of the land in respect of which the deferred land betterment charge relates —
 - (i) is disposed of or transferred to another person;
 - (ii) ceases to be occupied by or under the control of the taxable person; or
 - (iii) ceases to be used or maintained or otherwise satisfy the criteria prescribed in Regulations made under section 65 for the purposes of section 20(2)(b);
 - (c) any other disqualifying event prescribed in Regulations made under section 65 for such a deferment determination takes place.
- (4) Before exercising any power to cancel a deferment determination, the Authority must give written notice to the taxable person concerned —
- (a) stating that the Authority intends to cancel a deferment determination relating to the taxable person;
 - (b) specifying the disqualifying event that is the ground for the proposed cancellation; and
 - (c) specifying the time (being not less than 7 days from the date the written notice is given to the taxable person) within which written representations may be made to the Authority with respect to the proposed cancellation.
- (5) The Authority may, after considering any written representation under subsection (4)(c), decide to cancel the deferment determination in whole or in part.
- (6) Where the Authority has made any decision under subsection (5) to cancel a deferment determination relating to a taxable person, the Authority must give the taxable person concerned a notice of its decision.

(7) Subject to section 48, a decision to cancel a deferment determination under this section takes effect from the date on which the notice under subsection (6) is given, or on such other later date as may be specified in that notice.

(8) Where a deferment determination is cancelled under subsection (5), the person who, immediately before a disqualifying event concerned occurs, is the taxable person whose liability to pay any land betterment charge is reduced by or under the deferment determination, is liable to pay —

- (a) the amount of the land betterment charge that was reduced in accordance with that determination; or
- (b) if the deferment determination is cancelled in part, such part of the amount of the land betterment charge that was reduced in accordance with that determination as corresponding to the part of the deferment determination cancelled.

Transfer of deferred liability

23.—(1) A taxable person whose liability to pay any land betterment charge is reduced by or under a deferment determination (called in this section the transferor) may transfer the whole of the person's deferred liability to another person (called in this section the transferee) with the approval of the Authority.

(2) To obtain the approval of the Authority under subsection (1), the transferor must give the Authority a deferred liability transfer notice —

- (a) in writing and in a form required by the Authority;
- (b) identifying the transferee to whom the deferred liability to pay the land betterment charge is being transferred, accompanied by the consent of the transferee; and
- (c) including any other particulars prescribed in order for the Authority to make a decision under this section.

(3) A transferee is deemed to have assumed a transferor's deferred liability to pay a land betterment charge on the day on which the Authority approves the transferor's application under subsection (1).

(4) If the Authority approves a transfer of deferred liability, the Authority must give a copy of the approval to the transferee concerned, accompanied by the relevant deferment determination setting out the details of the deferred liability transferred.

PART 5

ASSESSMENT AND COLLECTION

When land betterment charge is payable

24.—(1) A land betterment charge that is payable by a taxable person is due and payable to the Authority —

- (a) at the end of one month after a liability order is given to the taxable person by the Authority in respect of that land betterment charge; or
- (b) at the end of any period of extension allowed under subsection (4) for payment of that land betterment charge.

(2) Where an assessment in a liability order is revised in accordance with section 27 and any additional land betterment charge is payable by a taxable person, the additional land betterment charge is due and payable to the Authority —

- (a) at the end of one month after the revised liability order is given to the taxable person by the Authority in respect of that additional land betterment charge; or
- (b) at the end of any period of extension allowed under subsection (4) for payment of that additional land betterment charge.

(3) Where a deferment determination is cancelled under section 22(5) and a taxable person becomes liable under that section to pay the amount of the land betterment charge that was reduced in accordance with that deferment determination, that amount of the land betterment charge is due and payable to the Authority in full —

(a) at the end of one month after the notice under section 22(6) about the cancellation of the deferment determination is given to the taxable person by the Authority; or

(b) at the end of any period of extension allowed under subsection (4) for payment of the land betterment charge.

(4) The Authority may, in such cases as it thinks fit, extend the time for payment of any land betterment charge or additional land betterment charge beyond the time mentioned in subsection (1)(a), (2)(a) or (3)(a).

(5) This section is subject to the making of a deferment determination under section 20, a transfer of deferred liability under section 23 or the making of a remission under section 14.

Liability order

25.—(1) Every taxable person must be given a liability order stating —

(a) subject to paragraph (b), the amount of the land betterment charge payable by the taxable person in respect of the relevant chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land; or

(b) if the relevant chargeable consent when given relates to a development of any land, an estimate of the amount of the land betterment charge that would be payable by the taxable person if the relevant chargeable consent were given in relation to a development of the land.

(2) A liability order must —

(a) specify an estimate of the total amount or the total amount (as the case may be) of the land betterment charge payable, and the apportioned amount among each taxable person concerned;

(b) state that the liability order may be subsequently revised by the Authority, and that an additional amount of land betterment charge may become further payable as a result;

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- (c) state that a taxable person given the liability order has to pay that estimated amount or amount (as the case may be) of land betterment charge within the time delimited by or under section 24(1); and
 - (d) specify the time within which under section 47(2)(a) the person may appeal to the Minister against the liability order.

(3) Where the Authority gives to a taxable person a revised liability order under section 27 in respect of any chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land, any earlier liability order given by the Authority to the taxable person in respect of the same chargeable consent and relating to the same development or subdivision of, or the same controlled activity with respect to, the same land ceases to have any effect.

(4) Subject to section 30, a liability order specifying an estimate of the amount of the land betterment charge payable by the taxable person if a chargeable consent were given in relation to a development of any land is treated as final as regards the assessment of the amount of land betterment charge payable in relation to the same development of the same land when —

- (a) 24 months has lapsed after —
 - (i) the date the chargeable consent was given to the taxable persons; or
 - (ii) if the chargeable consent was given on more than one date, the last date the chargeable consent was given to any of the taxable persons; and
- (b) no revised liability order is earlier given under section 27 in respect of that same chargeable consent.

When liability order must be given

26.—(1) The Authority must give in accordance with subsection (2), (3) or (4) (whichever is applicable) a liability order stating an estimate of the amount or the amount of land betterment charge that is payable.

(2) For a chargeable consent that is —

- (a) a planning permission or conservation permission; or
- (b) by way of varying of a restrictive covenant in a State title relating to any land that is not a controlled activity restrictive covenant or subdivision control restrictive covenant,

the liability order must be given as soon as practicable after one of the following dates, whichever is applicable:

- (c) the date a planning permission or conservation permission (as the case may be) is granted in respect of the development of the land to which the permission or authorisation relates, where —
 - (i) no provisional permission is granted with respect to the development of the land; and
 - (ii) no lodgment is made of any plans for the development that may be deemed authorised without express written permission;
- (d) the date where the competent authority or Land Planning Minister notifies the Authority that the competent authority or Land Planning Minister (as the case may be) intends to grant final permission under section 17(4) of the Planning Act 1998 — where any provisional permission is granted with respect to the development of the land and that provisional permission does not lapse because of one or more extensions.

(3) For a chargeable consent that is accepting a lodgment of any plans for a development of the land deemed authorised without express written permission, the liability order must be given as soon as practicable after the date the lodgment is accepted.

(4) For a chargeable consent that is by way of varying a controlled activity restrictive covenant or a subdivision control restrictive covenant in a State title, the liability order must be given as soon as practicable after the date the chargeable consent is given.

Revised liability order

27.—(1) Subject to subsection (2), the Authority may revise an estimate of the amount or the amount of land betterment charge assessed and stated in a liability order as payable either —

- (a) on its own initiative, by making such alterations or additions to the assessment as it thinks necessary to ensure that a complete and accurate assessment is made; or
- (b) upon a reference by the Minister under section 47(4) after an appeal.

(2) The Authority must not give a revised liability order under subsection (1)(a) about an estimate of the amount or the amount of land betterment charge payable in respect of a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect to, any land if more than 24 months has lapsed after —

- (a) the date the chargeable consent was given to the taxable persons; or
- (b) if the chargeable consent was given on more than one date, the last date the chargeable consent was given to any of the taxable persons.

(3) A revised liability order in respect of a chargeable consent in relation to a development or subdivision of, or a controlled activity with respect to, any land must —

- (a) specify the revised amount of land betterment charge payable by every taxable person concerned in respect of the chargeable consent;
- (b) state that a taxable person given the revised liability order has to pay the additional amount of land betterment charge specified within the time delimited by or under section 24(2);
- (c) state that any earlier liability order given to the taxable person in respect of the same chargeable consent and relating to the same development or subdivision of, or the

same controlled activity with respect to, the same land is superseded; and

- (d) specify the time within which under section 47(2)(a) the person may appeal to the Minister against the revised liability order.

Valuation method process

28. Where the Valuation method is required by section 9(2) or allowed by section 9(3) to be used to ascertain the amount of land betterment charge payable in respect of any chargeable consent relating to a development or subdivision of, or a controlled activity with respect to, any land, the Authority must —

- (a) arrange for a valuation required by that section to be carried out without delay by a designated valuer; and
- (b) upon receiving a report of the valuation mentioned in paragraph (a), give a liability order based on that report to the taxable person or persons concerned.

Liability order, etc., ceases to have effect when land betterment charge is fully paid

29. Subject to the making of a deferment determination under section 20, a transfer of deferred liability under section 23 or the making of a remission under section 14 —

- (a) a liability order; or
- (b) a revised liability order (if made),

that is given to a taxable person in respect of a chargeable consent ceases to have effect in relation to the taxable person once all outstanding amounts of land betterment charge due in respect of that chargeable consent have been paid to the Authority.

Payment of land betterment charge short levied, etc.

30.—(1) Despite sections 25(4) and 29, where any amount of land betterment charge under this Act has been short levied or erroneously refunded for any reason or owing to any cause, the person who should have paid the amount short levied or to whom the refund has

erroneously been made must pay the deficiency or repay the amount erroneously refunded, to the Authority on a valid demand being made and given to that person.

(2) A demand is valid under subsection (1) if it satisfies the following:

- (a) it is in writing;
- (b) it is made within 2 years after the date of payment of the land betterment charge stated in the demand as having been short levied or erroneously refunded;
- (c) it specifies —
 - (i) the amount of the short levy or erroneous refund that the Authority requires to be paid or repaid; or
 - (ii) the circumstances or land or chargeable consent in relation to which the Authority has reason to believe the short levy or erroneous refund arose.

(3) Subsection (2)(b) does not apply if the short levy or erroneous refund was the result of fraud or evasion on the part of the person liable to pay the amount short levied, or who claimed for or to be entitled to the refund erroneously made, as the case may be.

(4) Where the short levy or erroneous refund does not exceed \$20 or such other amount as the Minister may prescribe in Regulations made under section 65 in substitution, the Authority may waive the recovery of the short levy or erroneous refund.

PART 6

RECOVERY AND EVASION

Division 1 — Recovery

Recovery of land betterment charge

31.—(1) Any land betterment charge is deemed, when it becomes due and payable at the expiry of the time so delimited by or under section 24, to be a debt due to the Government, and must be collected and received by the Authority in accordance with this Act.

(2) Any land betterment charge that is unpaid may be recovered as a debt in any court of competent jurisdiction in the name of the Authority.

Action to recover may be taken any time

32. Any action or remedy for recovery of land betterment charge and any interest under section 38 may be taken at any time, any written law to the contrary notwithstanding.

Priority of case in insolvency

33.—(1) The amount of any land betterment charge or penalty tax —

- (a) due from a bankrupt at the date of the bankruptcy order, or from the bankrupt so dying at the date of his or her death; and
- (b) having become due within 12 months before the date of the bankruptcy order or his or her death,

is, by this subsection, included among the debts which, under section 352 of the Insolvency, Restructuring and Dissolution Act 2018, are to be paid in priority to all other debts in the distribution of property of the bankrupt or individual dying insolvent.

(2) The amount of any land betterment charge or penalty tax —

- (a) due from a company at the date of the winding up order; and
- (b) having become due within 12 months before the date of commencement of the winding up,

is, by this subsection, included among the taxes which, under section 203 of the Insolvency, Restructuring and Dissolution Act 2018, are to be paid in priority to all other unsecured debts in a winding up of the company.

Contribution between taxable persons jointly liable

34. Where 2 or more persons are liable for the same land betterment charge payable for a chargeable consent given in relation to a development or subdivision of, or a controlled activity with respect

to, any land, any one of them who has paid the whole of the land betterment charge (called *A*) —

- (a) may recover from any other person jointly liable with *A* an amount which bears to the amount of land betterment charge so paid the same proportion as the value of the estate or interest in the land of the other person bears to the total of the values of the estates or interests in the land of all persons liable for that land betterment charge; and
- (b) may —
 - (i) sue for that firstmentioned amount in any court of competent jurisdiction as money paid to the use of that other person at that other person's request; or
 - (ii) retain or deduct that firstmentioned amount out of any moneys in *A*'s hands belonging or payable to that other person.

Contribution by tenants or occupiers

35.—(1) Where a taxable person makes default in payment of any land betterment charge, then, without in any way releasing the taxable person from liability (except to the extent of any payments deemed to be made on the taxable person's behalf mentioned in paragraph (b)), the following provisions apply as long as the default continues:

- (a) if the land betterment charge is payable in respect of any land which is the subject to any lease or occupied by any person, then the lessee or occupier is responsible for the payment of the contribution and it may be recovered from the lessee or occupier as if the lessee or occupier were the defaulting taxable person;
- (b) all payments made under this section by a lessee or an occupier are deemed to be made on behalf of the defaulting taxable person.

(2) The responsibility of the lessee or occupier under this section is limited to any rent or payments due by the lessee or occupier to the taxable person at the time of demand made or action brought by or on behalf of the Authority.

(3) Any payment to the Authority under this section constitutes a valid discharge to the lessee or occupier for rent or payments due by the lessee or occupier to the defaulting taxable person as against all persons whomsoever.

Land betterment charge to be first charge on land

36.—(1) Any land betterment charge payable in respect of a chargeable consent relating to any land shall, until it is paid, be a first charge on that land in priority over all other encumbrances whatever.

(2) Where any land (called in this subsection a portion) is disposed of and that land formed part of land (called in this subsection the whole parcel) which immediately before the disposition was subject to a charge for an amount (called in this subsection the total charge) under this section —

- (a) the portion is subject to a charge (as mentioned in subsection (1)) for such amount as bears to the total charge the same proportion as the area of that portion bears to the area of the whole parcel; and
- (b) the remainder of the whole parcel is subject to a charge (as mentioned in subsection (1)) for an amount equal to the difference between the total charge and the charge to which the portion is subject by virtue of paragraph (a), in addition to any other charge to which the portion or remainder of the whole parcel may become liable.

(3) A certificate under section 55 is, for the purpose of determining the amount of any charge on any land as at any date, conclusive evidence in favour of any person referred to in section 55(2) as at the date specified in the certificate there was no charge on the land other than a charge arising out of any matter specified in the certificate.

Overpayment

37.—(1) Subject to subsection (3), where a taxable person is liable to pay any land betterment charge and the amount paid by the taxable person proves greater than the amount for which that person is liable under this Act, the taxable person is entitled to have the amount

overpaid refunded and the Authority must, as soon as practicable, repay the overpayment.

(2) In particular, where —

- (a) a taxable person has paid any amount by way of land betterment charge if a chargeable consent were given in relation to any land; and
- (b) no such chargeable consent is eventually given in relation to the land,

the taxable person is entitled to have the amount refunded and the Authority must, as soon as practicable, repay that amount.

(3) However, a refund under this section must be claimed in writing and made to the Authority within 6 years starting the date the liability order or revised liability order to which the claim relates becomes final and conclusive.

(4) To avoid doubt, nothing in this section operates to extend any time limit for appeal under Part 7.

Division 2 — Default and penalty tax

Interest in case of default

38. If any land betterment charge is not paid before the end of the time delimited by or under section 24(1) or (2), the taxable person concerned is liable to pay to the Authority interest, at the prescribed rate, on the amount of land betterment charge unpaid, calculated on a daily basis from the end of the time so delimited until the day the land betterment charge is paid.

Penalty tax payable where illegal development, etc., carried out

39.—(1) Where —

- (a) a person has, before, on or after the appointed day —
 - (i) carried out any development or subdivision of any land; or
 - (ii) carried on, or stopped carrying on, a controlled activity that is the subject of a controlled activity

restrictive covenant in a State title relating to any land; and

- (b) the person was then not lawfully entitled to carry out the development or subdivision, or to carry on or stop carrying on a controlled activity (as the case may be), because any one or more of the events in section 3(3) or (4) did not first happen,

a person who has a material interest in the land when the rectification order is given is liable to pay penalty tax upon the Authority giving the person a rectification order under section 40(1)(d) or (2)(d).

(2) Penalty tax imposed under this Division is in addition to any interest under section 38.

(3) However, penalty tax is not payable in relation to a mere failure to pay interest under section 38 or a penalty tax previously imposed under this Division.

(4) To avoid doubt, nothing in this section limits the operation of Part 4 of the Planning Act 1998.

Rectification order

40.—(1) Where it appears to the Authority that a person has, before, on or after the appointed day, carried out any development of any land and there was no entitlement to do so because —

- (a) there was no grant of a planning permission or conservation permission for the development; or
- (b) there was no accepting of a lodgment of any plans for the development of the land that may be deemed authorised without express written permission,

the Authority may —

- (c) notify the competent authority with a view to the competent authority exercising relevant powers under Part 4 of the Planning Act 1998 relating to the land; and
- (d) give a rectification order to the person or persons with a material interest in the land when the rectification order is

given, directing the person or persons to pay a penalty tax if the competent authority —

- (i) grants planning permission or conservation permission under section 14 of the Planning Act 1998 for the development, which then becomes an authorised development; or
- (ii) accepts a lodgment of any plans for the development of the land which is then deemed authorised without express written permission (as the case may be).

(2) Where it appears to the Authority that a person has, before, on or after the appointed day, carried out any development or subdivision of any land, or carried on or stopped carrying on a controlled activity that is the subject of a controlled activity restrictive covenant in a State title relating to any land, and there was no entitlement to do so because —

- (a) the carrying out of the development or subdivision, or the carrying on or stoppage in carrying on the controlled activity (as the case may be) would have been lawful only after varying by the Authority of —
 - (i) a special condition in a directly allotted State title relating to the land;
 - (ii) a restrictive covenant in a concessional State title relating to the land;
 - (iii) a controlled activity restrictive covenant in a State title relating to the land; or
 - (iv) a subdivision control restrictive covenant in a State title relating to the land; and
- (b) that variation was not obtained before the carrying out or carrying on of the development or subdivision of the land or the controlled activity, or the stoppage in carrying on a controlled activity, as the case may be,

the Authority may give a rectification order to the person or persons with a material interest in the land when the rectification order is given, directing the person or persons —

- (c) to restore the developed or subdivided land or to stop or resume any controlled activity to alleviate the effect of the unlawful development, subdivision or activity (as the case may be) at the person's cost; or
 - (d) to pay a penalty tax if —
 - (i) the Authority considers that restoring the developed or subdivided land or stopping or resuming any controlled activity in paragraph (c) is not reasonably practicable or is undesirable; and
 - (ii) the competent authority grants or has granted planning permission or conservation permission for the development or subdivision under section 14 of the Planning Act 1998, or accepts or has accepted a lodgment of any plans for the development or subdivision of the land which is then deemed authorised without express written permission (as the case may be) where that permission or lodgment is required for it to be an authorised development or a lawful subdivision.
- (3) Any rectification order under subsection (2)(c) —
 - (a) may include a requirement —
 - (i) to demolish or remove any fence or partition enclosing the land or any structure erected on the land resulting from any unlawful development, subdivision or activity mentioned in subsection (2), and to dispose of the fence, partition or structure and any resulting debris from the demolition; or
 - (ii) to stop, either wholly or to the extent specified in the rectification order, any controlled activity; and
 - (b) takes effect despite the provisions of any other written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the person given the order.

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- (4) A rectification order must state the period within which —
- (a) the person must comply with the rectification order (called in this Act the compliance period), which must be at least 14 days after the order is given; and
 - (b) the person may appeal against the rectification order if the person objects to and does not wish to comply with the rectification order.
- (5) The compliance period for a rectification order must not be longer than the objection period specified in that rectification order.
- (6) A person who —
- (a) is given a rectification order under subsection (2)(c); and
 - (b) does not appeal against the order within the time delimited by this Act for appeals,

must take, so far as is reasonably practicable and at the person's cost, such steps as are necessary to comply with the rectification order within the compliance period specified in that order.

(7) A person who, without reasonable excuse, fails to comply with subsection (6) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

Amount of penalty tax

41.—(1) Subject to sections 42 and 43, the amount of penalty tax payable upon the giving of a rectification order under section 40(1)(d) or (2)(d) is the total of the following:

- (a) the amount of the land betterment charge that would have been payable as if a chargeable consent were given, on the date of the rectification order or a later date specified in that order, in relation to the development or subdivision of,

or the controlled activity with respect to, the land, that is the subject of the rectification order;

(b) 30% of the amount in paragraph (a).

(2) However, no penalty tax is payable upon giving a rectification order to the person or persons with a material interest in the land when the rectification order is given (each called in this Division a tax payer) if the Authority is satisfied that the development or subdivision of the land happened or the controlled activity was carried on or stopped (as the case may be) solely because of circumstances beyond the tax payer's control (or if a person acted on behalf of that tax payer, because of circumstances beyond either the person's or the tax payer's control) but not amounting to financial incapacity.

(3) For the purposes of subsection (2), it is for the tax payer to prove that —

(a) it was not reasonably practicable to do more than what was in fact done to prevent the development or subdivision of the land, the carrying on of the controlled activity or the stoppage of the controlled activity, as the case may be; or

(b) the tax payer (and the person acting on behalf of the tax payer) did not know and could not reasonably have known about the development or subdivision of the land, the carrying on of the controlled activity or the stoppage of the controlled activity, as the case may be.

Reduction in penalty tax for voluntary disclosure, etc.

42. The Authority may in the following circumstances reduce the amount of penalty tax payable upon the giving of a rectification order, by using the percentages below in lieu of the percentage in section 41(1)(b):

(a) 6% of the amount of land betterment charge worked out under section 41(1)(a) if, before the Authority informs the tax payer given the rectification order that an investigation relating to the carrying out of any development or subdivision of the land or the carrying on of a controlled

activity or the stoppage in carrying on a controlled activity (as the case may be) without the relevant chargeable consent is to be carried out, the tax payer discloses to the Authority or an authorised officer, in writing, sufficient information to enable the nature and extent of any development or subdivision of the land or controlled activity carried on or of the stoppage of a controlled activity (as the case may be) to be ascertained;

- (b) 24% of the amount of land betterment charge worked out under section 41(1)(a) if, after the Authority informs the tax payer given the rectification order that an investigation relating to the carrying out of any development or subdivision of the land or the carrying on of a controlled activity or the stoppage in carrying on a controlled activity (as the case may be) without the relevant chargeable consent is to be carried out and before the investigation is begun, the tax payer discloses to the Authority or an authorised officer, in writing, sufficient information to enable the nature and extent of any development or subdivision of the land or controlled activity carried on or of the stoppage of a controlled activity (as the case may be) to be ascertained.

Increase in penalty tax for concealment

43. In lieu of the amount calculated according to section 41(1)(b), the Authority may increase the amount of penalty tax payable upon the giving of a rectification order by using 50% of the amount of land betterment charge worked out under section 41(1)(a), if the Authority is satisfied that —

- (a) the Authority has informed the tax payer given the rectification order that an investigation is to be carried out; and
- (b) before the investigation is completed, the tax payer (or a person acting on behalf of the tax payer) hinders or obstructs an authorised officer exercising functions under Part 8, or a designated valuer exercising functions under

Part 8, for the purposes of determining the tax payer's liability.

Recovery of penalty tax

44. Any penalty tax imposed under this Division is recoverable as if —

- (a) the penalty tax were a land betterment charge due and payable under this Act;
- (b) the rectification order imposing the penalty tax were a liability order; and
- (c) the rectification order imposing the penalty tax were a chargeable consent.

Evasion

45.—(1) Any person who wilfully with intent to evade or to assist any other person to evade payment of any land betterment charge —

- (a) makes any false statement, declaration or entry in any return required to be made under this Act or the Regulations;
- (b) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with this Act; or
- (c) makes use of any fraud, art or contrivance or authorises the use of any such fraud, art or contrivance,

shall be guilty of an offence and shall be liable on conviction to a penalty of 4 times the amount of land betterment charge which has been underpaid in consequence of the offence, or which would have been so underpaid if the offence had not been detected, and shall also be liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return furnished under this Act or any Regulations by or on behalf of any person or any book of accounts or other records maintained by or on behalf of any person,

that person is presumed, until the contrary is proved, to have made that false statement or entry with intent to evade the land betterment charge.

PART 7

APPEAL

Interpretation of this Part

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

“appealable decision” means any of the following decisions of the Authority not made upon a reference under section 47(4)(b):

- (a) a refusal to make a deferment determination under section 20;
- (b) a cancellation of a deferment determination under section 22(5);
- (c) the making of a liability order or a revised liability order under section 25 or 27;
- (d) a refusal to approve a transfer of any deferred liability to pay any land betterment charge under section 23;
- (e) the giving of a rectification order under section 40(1)(d) or (2);

“appellant” means the person making an appeal against an appealable decision given to that person.

Appeal to Minister

47.—(1) An appellant who is aggrieved by an appealable decision may appeal to the Minister against the decision in accordance with this section.

(2) An appeal under this section must be in writing and specify the grounds on which it is made, and be made —

- (a) for an appealable decision that is the making of a liability order or revised liability order — within 30 days after the

date the decision appealed against is given to the appellant;
and

- (b) for any other appealable decision — within 14 days after the date that decision appealed against is given to the appellant.
- (3) The Minister may reject an appeal of an appellant who fails to comply with subsection (2).
- (4) After considering an appeal, the Minister may —
- (a) reject the appeal and confirm the appealable decision; or
 - (b) allow the appeal and refer the matter back to the Authority to reconsider the case.
- (5) The Minister’s decision on an appeal is final.
- (6) Every appellant must be notified of the Minister’s decision under subsection (5).

Appeal does not excuse payment

48. An appeal against an appealable decision does not affect the operation of the appealable decision concerned or prevent the taking of action to implement the appealable decision concerned, and unless otherwise directed by the Minister under this section, that appealable decision must be complied with until the determination of the appeal.

PART 8

ADMINISTRATION

Administration of Act

- 49.—**(1) It is the function of the Authority to administer this Act.
- (2) In performing the functions conferred on the Authority by this Act, the Authority must aim to strike what appears to the Authority to be an appropriate balance between —
- (a) the desirability of funding from the land betterment charge (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development

of land as a result of a chargeable consent, taking into account other actual and expected sources of funding; and

- (b) the potential effects (taken as a whole) of the imposition of any land betterment charge on the economic viability of any development of land.

(3) Before making any decision under section 20 or 22 in relation to a deferment determination, the Authority may consult with such person or committee of persons specified by the Minister but, in making such decision, the Authority is not bound by such consultation.

Authorised officers

50.—(1) The Authority may, in relation to any provision of this Act or its subsidiary legislation, appoint —

- (a) any of its employees;
(b) any public officer; or
(c) any employee of a public authority,

to be an authorised officer for the purposes of that provision, either generally or for any particular case.

(2) The Authority may delegate the exercise of all or any of the powers conferred or duties imposed upon the Authority by any provision of this Act or its subsidiary legislation, to any authorised officer, subject to any conditions or limitations that the Authority may specify; and any reference in that provision of this Act or its subsidiary legislation to the Authority includes a reference to such an authorised officer.

(3) However, nothing in subsection (2) authorises delegating —

- (a) the power of delegation conferred by that subsection;
(b) any power of the Authority to make subsidiary legislation;
or
(c) any other power under section 14 to any individual who is not an employee of the Authority.

Powers of entry, etc., at premises

51.—(1) An authorised officer may, with such assistants and workmen as are necessary, enter at any reasonable time any land which the authorised officer reasonably believes to be or may be the subject of —

- (a) an application for a planning permission or conservation permission in relation to the land;
- (b) an application to the Authority to vary a restrictive covenant in a State title relating to the land; or
- (c) a lodgment of any plans for a development of the land deemed authorised without express written permission,

and do all or any of the activities mentioned in subsection (2) for the relevant purposes.

(2) An authorised officer may, after entering any land mentioned in subsection (1), do all or any of the following:

- (a) examine any thing or observe any activity conducted in or on the land;
- (b) make a still or moving image or recording of the land and any thing in or on the land;
- (c) inspect any document on the land and take extracts from, or make copies of, any such document;
- (d) take into or onto the land such equipment and materials as the authorised officer requires for the purpose of exercising powers in relation to the land;
- (e) operate electronic equipment in or on the land;
- (f) under a warrant of a Magistrate's Court or District Court, seize any thing found in or on the land which the authorised officer reasonably suspects is evidential material relevant to an offence under this Act or its subsidiary legislation.

(3) The power under subsection (2)(e) to operate electronic equipment in or on any land includes the power —

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- (a) to use a disk, tape or other storage device that is in or on the land and can be used with the equipment or in association with the equipment;
 - (b) to operate electronic equipment in or on the land to put the relevant data in documentary form and remove the documents so produced from the land; and
 - (c) to operate electronic equipment in or on the land to transfer the relevant data to a disk, tape or other storage device that —
 - (i) is brought to the land for the exercise of the power; or
 - (ii) is in or on the land and the use of which for that purpose has been agreed in writing by the occupier of the land,and to remove the disk, tape or other storage device from the land.

(4) Sections 370, 371 and 372 of the Criminal Procedure Code 2010 apply, with the necessary modifications, when an authorised officer seizes any thing under this section.

(5) In this section and section 52, “relevant purpose” means —

- (a) to determine compliance with this Act and its subsidiary legislation, including whether an offence under this Act or its subsidiary legislation has been committed;
- (b) to determine whether information provided to the Authority under a provision of this Act or its subsidiary legislation is correct; or
- (c) to investigate whether there are grounds to cancel a deferment determination.

Power to obtain information

52.—(1) An authorised officer may by written notice require any person to provide, within a reasonable period specified in the notice, and in such form and manner as may be specified in the notice, all documents and information which —

- (a) relate to any matter which the authorised officer considers necessary for any of the relevant purposes; and
 - (b) are —
 - (i) within the knowledge of that person; or
 - (ii) in the custody or under the control of the person.
- (2) The power to require a person to provide any document or information under subsection (1) includes the power —
- (a) to require that person, or any individual who is or was an officer or agent or a representative of the person, to provide an explanation of the document or information;
 - (b) if the document or information is not provided, to require that person or individual to state, to the best of the knowledge and belief of that person or individual (as the case may be), where it is; and
 - (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority or an authorised officer in legible form.
- (3) The Authority is entitled without payment to keep any document or information, or any copy or extract thereof, provided to the Authority or an authorised officer under subsection (1).

Power of designated valuer to obtain information

53.—(1) A designated valuer may, at all reasonable times, enter any land and exercise powers mentioned in section 51(2)(a) and (b), for the purposes of carrying out a valuation of the land required by section 9 or 28.

- (2) Where a designated valuer enters any land under subsection (1), the owner or occupier of the land —
- (a) must answer any questions put by the designated valuer for the purpose of enabling a correct valuation to be made; and
 - (b) when required by the designated valuer to do so, must generally provide to the designated valuer all information

within the knowledge or in the possession of the owner or occupier that is necessary for that purpose.

(3) A designated valuer may, by giving written notice to the owner of any land, require that owner, within such reasonable time as may be specified in the notice, to provide the designated valuer such information, and to produce such documents, relating to the land as may be required by the designated valuer for the purposes of carrying out a valuation of any land required by section 9 or 28 and as may be specified in the notice.

(4) Without limiting subsection (3), a notice referred to in that subsection may —

- (a) require information as to any one or more of the following matters:
 - (i) the area, portions, lots, deposited plans, references to title, situation, quality and use of the land that is the subject of the request;
 - (ii) the nature of the improvements thereon;
 - (iii) any reservations, restrictions, covenants, easements or rights in the nature of easements affecting the land; or
- (b) require the production of any contract, or a copy of any contract, for the purchase of the land, any instrument incorporated or referred to in any such contract and any instrument or option relating to the purchase of the land by the owner, where the contract, copy, instrument or option is in the owner's possession or control.

Offences for obstruction, etc.

54.—(1) A person who, without reasonable excuse, fails to do anything required of the person —

- (a) under section 17(2) by the Authority;
- (b) under section 52(1) by an authorised officer; or

(c) under section 53(2) or (3) by a designated valuer, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(2) A person —

(a) who intentionally alters, suppresses or destroys any document or information which the person has been required —

(i) under section 52(1) by an authorised officer by a notice to provide; or

(ii) under section 53(2) or (3) by a designated valuer to provide; or

(b) who, in providing any document or information required —

(i) under section 17(2) by the Authority to provide;

(ii) under section 52(1) by an authorised officer by a notice to provide; or

(iii) under section 53(2) or (3) by a designated valuer to provide,

makes any statement which the person knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) In any proceedings for an offence under subsection (1), it is a defence for the accused to prove, on a balance of probabilities, that —

(a) the person does not possess the document or information required; and

(b) the person has taken all reasonable steps available to the person to obtain the document or information required and has been unable to obtain it.

(4) To avoid doubt, for the purposes of subsection (1), it is a reasonable excuse for a person to refuse or fail to provide any information, produce any document or answer any question if doing so might tend to incriminate that person.

Authority to issue evidentiary certificates in respect of certain matters

55.—(1) Upon receipt of an application in writing made by a person in accordance with a form provided by the Authority for the purpose and upon payment of a prescribed fee (if any), the Authority must provide the applicant, in relation to any land, a certificate containing information in relation to the following matters as at the date of the certificate:

- (a) whether or not a liability order, revised liability order or deferment determination has been given applying to the land and, if such an order or determination has been so given, the date thereof;
- (b) where any land betterment charge is payable in respect of a chargeable consent relating to the land, whether an appeal against such a liability order, revised liability order or deferment determination is pending;
- (c) such other matters as may be prescribed by Regulations made under section 64.

(2) A certificate issued under this section is, for the purposes of determining a person's liability for land betterment charge, conclusive evidence of the information specified in the certificate as at the date so specified —

- (a) where the applicant for the certificate is the owner of the land to which the certificate relates — in favour of that applicant and of any successor in title of the applicant who is a bona fide purchaser for value of the land; or
- (b) where the applicant is not the owner of the land to which the certificate relates — in favour of that applicant and, if the applicant becomes the owner of the land, of any

successor in title who is a bona fide purchaser for value of the land.

(3) Subsection (2) does not operate —

- (a) in relation to any certificate that was obtained by misrepresentation or by fraudulent or improper means to which the applicant for the certificate was privy; or
- (b) in favour of an applicant for a certificate where any information specified in the certificate was to the knowledge of the applicant erroneous as at the date on which the certificate was issued.

(4) Nothing in this section requires the Authority to provide a certificate under this section as to any land betterment charge paid or payable in respect of a chargeable consent relating to any land if the Authority is of the opinion that the amount of that land betterment charge could be revised or altered because of any proceedings taken or that may be taken under this Act.

(5) In this section, “purchaser” includes a mortgagee.

Protection from personal liability

56. No liability shall lie personally against any member, officer or employee of the Authority, any designated valuer or any other person acting under the direction of the Authority or Chief Valuer (as the case may be) for anything done or intended to be done in good faith and with reasonable care in —

- (a) the exercise or purported exercise of any power under this Act; or
- (b) the performance or purported performance of any function under this Act.

Consolidated Fund

57. All land betterment charges and penalty tax collected and recovered by the Authority under this Act, and all late payment interest imposed under section 38, must be paid into the Consolidated Fund.

Composition of offences

58.—(1) The Chief Executive of the Authority, or an employee of the Authority authorised in writing by the Authority, may compound any offence under this Act or the Regulations 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) \$2,000.

(2) On payment of the 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.

Offences by corporations

59.—(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
 - (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 5 and 5A of the Penal Code 1871; or
- (b) any written 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;

“reasonable steps”, in relation to the commission of an offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances:

(a) action towards —

- (i) assessing the corporation’s compliance with the provision creating the offence; and

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- (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision;
 - (b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the offence so far as the provision is relevant to them;
 - (c) action towards ensuring that —
 - (i) the equipment and other resources; and
 - (ii) the structures, work systems and other processes,
relevant to compliance with the provision creating the offence are appropriate in all the circumstances;
 - (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the offence;

“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

60.—(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 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 partnership and 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 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 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 the unincorporated association or partnership (as the case may be), 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 that the unincorporated association or partnership would bear.

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

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) any written 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 —

“reasonable steps” has the meaning given by section 59;

“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.

PART 9

MISCELLANEOUS

Interface with other laws

61. To avoid doubt, nothing in this Act limits section 31 of the Singapore Land Authority Act 2001 with respect to an offence under this Act or any of its subsidiary legislation or the powers of the competent authority under the Planning Act 1998.

Service of documents

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

(2) A document permitted or required by this Act to be given to 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, 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 given to a partnership (other than a limited liability partnership) may be served —
- (a) by giving it to any partner, secretary or other similar 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 given to a body corporate (including a limited liability partnership) or an unincorporated association may be served —
- (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

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- (b) by leaving it at, or by sending it by prepaid registered post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;
- (c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or
- (d) by sending it by email to the last email address of the body corporate or unincorporated association.
- (5) Service of a document under subsection (1) 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 to whom it is sent; 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) However, service of any document under this Act on a person by email may be effected only with the person’s prior consent to service in that way.
- (7) However, 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;
- “document” includes a notice or an order permitted or required by this Act to be served;

“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.

Application to Government, etc.

63.—(1) This Act binds the Government, but nothing in this Act renders the Government, or the Minister for the time being charged with the responsibility for finance in his or her capacity as a body corporate, liable to any land betterment charge or prosecution for an offence under this Act.

(2) To avoid doubt, no public authority or other person is immune from liability to any land betterment charge or prosecution for any offence under this Act by reason only that the public authority or person (as the case may be) is engaged to provide services to the Government or is acting in any other similar capacity for, or on behalf of, the Government.

Regulations by Authority

64.—(1) The Authority may, with the approval of the Minister, make regulations prescribing matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) In particular, the Authority may, with the approval of the Minister, make Regulations to provide for any of the following:

- (a) the procedure for applying for a deferment determination or approval to transfer any deferred liability to pay any land betterment charge;
- (b) the procedure for appeals under Part 7;

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- (c) the fees payable with respect to processing applications for deferment determinations or approvals to transfer any deferred liability to pay land betterment charges, or for any other service provided by the Authority in the administration of this Act;
 - (d) the offences under this Act that may be compounded;
 - (e) that any contravention of any provision of the Regulations is an offence and that the penalty for which on conviction may be a fine not exceeding \$10,000 or imprisonment for a term not exceeding 6 months or both;
 - (f) such saving, transitional, and other consequential, incidental and supplemental provisions as is necessary or expedient for the Regulations made under this section.

(3) All Regulations made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations for Valuation method and Table of Rates method, etc.

65.—(1) The Minister may make regulations which are necessary or convenient to be prescribed, for carrying out or giving effect to the Table of Rates method, such as providing for the rates and methods to calculate a pre-chargeable valuation and post-chargeable valuation for any land, which may be in one or more of the following terms:

- (a) by reference to location of the land in question;
- (b) by reference to the different intended and existing uses of the land in question;
- (c) by reference to the nature of the material interest of taxable persons;
- (d) by reference to the area of the land that is the subject of the chargeable consent given;
- (e) by reference to development intensity;
- (f) by reference to historical rates;

- (g) by reference to the date or validity of any planning permission or conservation permission granted;
 - (h) by reference to metrics that are the equivalent of planning parameters used to express written permissions under the Planning Act 1998 or the predecessor Act.
- (2) The Regulations made under this section may also —
 - (a) provide for situations where the Authority does not have sufficient information, or information of sufficient quality, to enable it to establish any area of the land —
 - (i) that is the subject of the chargeable consent given or to be given; or
 - (ii) that is an authorised development or otherwise in lawful use;
 - (b) set differential rates, supplementary rates, nil rates, increased rates or reductions;
 - (c) provide for how liability for any land betterment charge is apportioned; and
 - (d) prescribe any matter necessary or convenient for carrying out or giving effect to the Valuation method.
- (3) However, the Regulations made under this section prescribing the rates and method to calculate a pre-chargeable valuation for any land or for carrying out or giving effect to the Valuation method must disregard —
 - (a) any authorised development of the land that relates to one single dwelling-house on the land if the development in respect of which a chargeable consent is to be given is for a use other than as land with only one single dwelling-house on it;
 - (b) any use of the land that is not an authorised development or is otherwise not in lawful use; or
 - (c) any authorised development of the land prescribed in Regulations made under this section as excluded for this purpose.

(4) In this section, “single dwelling-house” means one detached, semi-detached, linked or terrace house used or adapted for use wholly or mainly for the purpose of human habitation.

(5) The Minister may also make regulations under this section prescribing —

- (a) the criteria for deferment determinations;
- (b) the disqualifying events for the cancellation of deferment determinations;
- (c) the prescribed percentage of the increase in the value of the land likely to accrue from the giving of a chargeable consent in relation to land, for the purposes of section 8; and
- (d) such saving, transitional, and other consequential, incidental and supplemental provisions as are necessary or expedient for the Regulations made under this section.

(6) All Regulations made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

PART 10

AMENDMENTS TO OTHER ACTS AND FINAL PROVISIONS

Amendments to Planning Act 1998

66. The Planning Act 1998 is amended —

- (a) by deleting the words “and for the imposition of development charges on the development of land” in the long title;
- (b) by deleting the definition of “development charge” in section 2;
- (c) by inserting, immediately after section 21, the following section:

“Full payment of land betterment charge may be condition precedent to written permission, etc.

21A. Despite any other provision in this Act, it is lawful for —

- (a) the competent authority or Minister to refuse to grant written permission under section 14 for a development or subdivision of any land; or
- (b) the competent authority to refuse to accept a lodgment of any plans for a development or subdivision of any land authorised by notification in the *Gazette* made under section 21(6),

if any land betterment charge that is payable under the Land Betterment Charge Act 2021 with respect to the development or subdivision is not paid in full and where no deferment determination relating to the land betterment charge is in force.”;

- (d) by deleting the words “, 29 or 39(7)” in section 22A and substituting the words “or 29”;
- (e) by repealing Parts 5 and 5A;
- (f) by repealing section 50;
- (g) by deleting paragraph (a) of section 60(1); and
- (h) by deleting subsection (4) of section 62.

Amendments to Singapore Land Authority Act 2001

67. The Singapore Land Authority Act 2001 is amended —

- (a) by inserting, immediately after the words “recovery of” in section 6(1)(e)(iv), the words “any land betterment charge payable under the Land Betterment Charge Act 2021, and”;
- (b) by inserting, immediately after paragraph (e) of section 6(1), the following paragraph:

“(ea) to cooperate and collaborate with the competent authority in the discharge of its functions under the Planning Act (Cap. 232) or the Planning Act 1998, when it is revised and citable by that short title;” and

- (c) by inserting, immediately after item 6 of the Third Schedule, the following item:

“7. All provisions of the Land Betterment Charge Act 2021.”.

Saving and transitional provisions

68.—(1) Despite section 66(e), this Act does not apply to or in relation to —

- (a) any development charge that is payable under the Planning Act 1998 by virtue of an interim order served under section 38 or 39 of the Planning Act 1998 before the date of commencement of section 66(e), and in respect of which proceedings under that Act for its recovery have started before that date; or
- (b) any temporary development levy that is payable under the Planning Act 1998 by virtue of any notice requiring the payment of the amount of temporary development levy issued under section 40B of the Planning Act 1998 before the date of commencement of section 66(e), and in respect of which proceedings under that Act for its recovery have started before that date,

and that development charge or temporary development levy (as the case may be) continues to be recoverable under the Planning Act 1998 as if section 66(e) were not enacted.

- (2) Where an appeal has been made to the Minister —

- (a) under section 39(7) of the Planning Act 1998 before the date of commencement of section 66(e); and

- (b) the appeal has not been dealt with or disposed of immediately before that date,

the appeal may continue to be dealt with under Part 5 of the Planning Act 1998 as if section 66(e) had not been enacted.

- (3) Except as provided in subsection (1) —

- (a) every interim order or final order served under section 38 or 39 of the Planning Act 1998 before the date of commencement of section 66(e) requiring the payment of any development charge that is payable under the Planning Act 1998; and
- (b) every notice issued under section 40B of the Planning Act 1998 before the date of commencement of section 66(e) requiring the payment of any temporary development levy that is payable under the Planning Act 1998,

is, so far as it is not inconsistent with the provisions of this Act, to continue as if —

- (c) the interim order, final order and notice (as the case may be) are each a liability order or revised liability order given under this Act;
- (d) the development charge or temporary development levy that is the subject of the interim order, final order or notice (as the case may be) is a land betterment charge; and
- (e) the person given that interim order, final order or notice (as the case may be) is a taxable person.

(4) Despite any provision of this Act, where the liability of a person to pay any development charge or temporary development levy under the Planning Act 1998 for the development of any land is deferred under —

- (a) the Planning (Deferment of Payment of Temporary Development Levy by Charities) Rules 2016 (G.N. No. S 46/2016); or

(b) the Planning (Deferment of Payment of Development Charge by Charities) Rules 2017 (G.N. No. S 232/2017), and the deferment is in force on the date immediately before the date of commencement of section 66(e), the liability is to continue, so far as it is not inconsistent with Part 4, as if it were a deferment determination under section 20.

(5) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

(6) Nothing in this section prejudices section 16 of the Interpretation Act 1965.
