



REPUBLIC OF SINGAPORE
GOVERNMENT GAZETTE
ACTS SUPPLEMENT
Published by Authority

NO. 50]

FRIDAY, DECEMBER 29

[2017

First published in the *Government Gazette*, Electronic Edition, on 26 December 2017 at 5 pm.

The following Act was passed by Parliament on 2 October 2017 and assented to by the President on 23 October 2017:—

REPUBLIC OF SINGAPORE

No. 40 of 2017.

I assent.

HALIMAH YACOB,
President.
23 October 2017.



An Act to amend the Maritime and Port Authority of Singapore Act (Chapter 170A of the 1997 Revised Edition) and to make related amendments to the Public Utilities Act (Chapter 261 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Maritime and Port Authority of Singapore (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Maritime and Port Authority of Singapore Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately before the definition of “authorised pilot”, the following definition:

“ “appointed officer” means a person authorised or appointed as an appointed officer under section 89A(1);”;

(b) by inserting, immediately after the definition of “harbour craft”, the following definition:

“ “inland craft” —

(a) means any ship, boat or air-cushioned vehicle or similar craft used in any reservoir or waterway, however moved or propelled; but

(b) excludes any floating rig or platform that is not a barge;”;

(c) by deleting the definition of “master” and substituting the following definition:

“ “master” —

(a) in relation to a vessel, includes every person (except a pilot) having charge or command of the vessel; and

(b) in relation to an inland craft, includes every person having charge of the inland craft;”;

(d) by deleting the definition of “owner” and substituting the following definition:

““owner”, in relation to a vessel or inland craft, includes any part-owner, charterer, operator, consignee or mortgagee in possession of the vessel or inland craft, as the case may be, or any duly authorised agent of any such person;”;

(e) by inserting, immediately after the definition of “public licence”, the following definition:

““Public Utilities Board” means the Public Utilities Board continued under section 3 of the Public Utilities Act (Cap. 261);”;

(f) by inserting, immediately after the definition of “regulations”, the following definition:

““reservoir” means a body of water maintained as a reservoir by the Public Utilities Board in the following areas as defined in regulations made under section 72 of the Public Utilities Act:

(a) a Catchment Area Park;

(b) the Central Water Catchment Area;”;

(g) by deleting the words “or any other description of vessel” in the definition of “vessel”; and

(h) by inserting, immediately after the definition of “vessel”, the following definition:

““waterway” has the same meaning as in section 2 of the Public Utilities Act;”.

Amendment of section 6

3. Section 6(1) of the principal Act is amended by deleting the words “not less than 2 nor more than 13” in paragraph (b) and substituting the words “not fewer than 3”.

Amendment of section 7**4.** Section 7 of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (p) of subsection (1), and by inserting immediately thereafter the following paragraph:

“(pa) to regulate the operation and safety of inland craft in reservoirs and waterways; and”; and

(b) by inserting, immediately after the words “in the port” in subsection (2)(d), the words “and in reservoirs and waterways”.

Repeal and re-enactment of section 18

5. Section 18 of the principal Act is repealed and the following section substituted therefor:

“Protection from personal liability

18. No liability shall lie personally against any member, officer or employee of the Authority, any appointed officer or any other person acting under the direction of the Authority who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act.”.

Repeal and re-enactment of section 19

6. Section 19 of the principal Act is repealed and the following section substituted therefor:

“Public servants

19.—(1) All members, officers and employees of the Authority, all appointed officers, and all members of the Pilotage Committee, are taken to be public servants for the purposes of the Penal Code (Cap. 224).

(2) Every employee or officer of the Authority and every appointed officer is, in relation to his administration, assessment, collection and enforcement of payment of any composition sum under section 102, taken to be a public officer for the purposes of

the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to each of these persons even though he is not or was not in the employment of the Government.”.

Amendment of section 84

7. Section 84(1) of the principal Act is amended by inserting, immediately after the words “has gone” in paragraph (b), the words “or is likely to go”.

New Part XIII A

8. The principal Act is amended by inserting, immediately after section 86, the following Part:

“PART XIII A

CONTROL OF DESIGNATED PUBLIC LICENSEES,
DESIGNATED BUSINESS TRUSTS AND DESIGNATED
EQUITY INTEREST HOLDERS

Interpretation of this Part

86A.—(1) In this Part, unless the context otherwise requires —

“5% controller”, in relation to a designated public licensee, designated business trust or designated equity interest holder, means a person who, alone or together with the person’s associates —

(a) holds 5% or more, but less than 25%, of the total equity interests in; or

(b) is in a position to control 5% or more, but less than 25%, of the voting power in,

the designated public licensee, designated business trust or designated equity interest holder, as the case may be;

“25% controller”, in relation to a designated public licensee, designated business trust or designated equity interest holder, means a person who, alone or together with the person’s associates —

(a) holds 25% or more, but less than 50%, of the total equity interests in; or

- (b) is in a position to control 25% or more, but less than 50%, of the voting power in,
the designated public licensee, designated business trust or designated equity interest holder, as the case may be;
- “50% controller”, in relation to a designated public licensee, designated business trust or designated equity interest holder, means a person who, alone or together with the person’s associates —
- (a) holds 50% or more, but less than 75%, of the total equity interests in; or
- (b) is in a position to control 50% or more, but less than 75%, of the voting power in,
the designated public licensee, designated business trust or designated equity interest holder, as the case may be;
- “75% controller”, in relation to a designated public licensee, designated business trust or designated equity interest holder, means a person who, alone or together with the person’s associates —
- (a) holds 75% or more of the total equity interests in; or
- (b) is in a position to control 75% or more of the voting power in,
the designated public licensee, designated business trust or designated equity interest holder, as the case may be;
- “acquisition” includes an agreement to acquire, but does not include —
- (a) an acquisition by will or by operation of law; or
- (b) an acquisition by way of enforcement of a loan security;
- “arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

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- “business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);
- “control” includes control as a result of, or by means of, any trust, agreement, arrangement, understanding or practice, whether or not having legal or equitable force and whether or not based on legal or equitable rights;
- “corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);
- “decrease”, in relation to the holding of equity interest, includes a decrease to a point of nil;
- “Depository” has the same meaning as in section 81SF of the Securities and Futures Act (Cap. 289);
- “designated business trust” means a business trust that has been designated under section 86D to be a designated business trust;
- “designated equity interest holder” means a person that has been designated under section 86D to be a designated equity interest holder;
- “designated public licensee” means a public licensee that has been designated under section 86D to be a designated public licensee;
- “director” has the same meaning as in section 4(1) of the Companies Act;
- “entity” includes a corporation and a limited liability partnership;
- “equity interest” means —
- (a) in relation to a body corporate, a voting share in that body corporate;
 - (b) in relation to an entity other than a body corporate, any right or interest, whether legal or equitable, in that entity, by whatever name called, which gives the holder of that right or interest voting power in that entity; and

(c) in relation to a business trust, a unit in that business trust;

“increase”, in relation to the holding of equity interest, includes an increase from a starting point of nil;

“indirect controller”, in relation to a designated public licensee, designated business trust or designated equity interest holder, means any person, whether acting alone or together with any other person, and whether with or without holding equity interests or controlling the voting power in the designated public licensee, designated business trust or designated equity interest holder, as the case may be —

(a) whose directions, instructions or wishes the director or other officers of the designated public licensee, the trustee-manager of the designated business trust, or the designated equity interest holder, as the case may be, are accustomed or under an obligation, whether formal or informal, to act in accordance with; or

(b) who is in a position to determine the policy of the designated public licensee, designated business trust or designated equity interest holder, as the case may be,

but does not include —

(i) any person who is a director or other officer of the designated public licensee, the trustee-manager of the designated business trust, or the designated equity interest holder, as the case may be; or

(ii) any person whose directions, instructions or wishes the directors or other officers of the designated public licensee, the trustee-manager of the designated business trust, or the designated equity interest holder, as the case may be, are accustomed to act in accordance

with by reason only that they act on advice given by the person in that person's professional capacity;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“liquidator” includes the Official Receiver when acting as the liquidator of a corporation;

“officer”, in relation to a corporation, includes —

- (a) a director or secretary of, or a person employed in an executive capacity by, the corporation;
- (b) any receiver or manager, or any receiver and manager, of any part of the undertaking of the corporation, appointed under a power contained in any instrument or by the High Court or by the creditors;
- (c) any liquidator of the corporation appointed in a voluntary winding up or by the High Court or by the creditors; and
- (d) any judicial manager of the corporation appointed by the High Court under Part VIIIA of the Companies Act;

“Official Receiver” means the Official Assignee as defined in section 2(1) of the Bankruptcy Act (Cap. 20);

“related corporation”, in relation to a corporation, means another corporation that is deemed under section 86C(2) to be related to that corporation;

“share”, in relation to a corporation, means a share in the share capital of the corporation and includes stock into which all or any of the share capital of the corporation has been converted;

“treasury share” has the same meaning as in section 4(1) of the Companies Act;

“trustee-manager” has the same meaning as in section 2 of the Business Trusts Act;

“unit” has the same meaning as in section 2 of the Business Trusts Act;

“voting share” has the same meaning as in section 4(1) of the Companies Act but does not include a treasury share.

(2) A reference in this Part to the control of a percentage of the voting power in a designated public licensee, designated business trust or designated equity interest holder is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the designated public licensee, designated business trust or designated equity interest holder, as the case may be.

(3) In ascertaining a person’s control of the percentage of the total votes that might be cast at a general meeting mentioned in subsection (2), the number of votes that the person is entitled to cast at the meeting by reason of having been appointed a proxy or representative to vote at the meeting is to be disregarded.

What holding an equity interest means

86B.—(1) In this Part, a person holds an equity interest if the person —

- (a) has or is deemed to have an equity interest in accordance with subsections (2) to (7); or
- (b) otherwise has a legal or equitable interest in that equity interest,

except for any interest prescribed under section 119 as an interest that is to be disregarded.

(2) Subject to subsection (3), a person has an equity interest if the person has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, that equity interest.

(3) It is immaterial that the authority of a person to dispose of, or to exercise control over the disposal of, the equity interest mentioned in subsection (2) is, or is capable of being made, subject to restraint or restriction.

(4) It is immaterial, for the purposes of determining whether a person has an equity interest that the interest cannot be related to a particular share, an interest or right that gives its holder voting power, or a unit of a business trust, as the case may be.

(5) A person is deemed to have an equity interest if —

- (a) any property held in trust consists of or includes the equity interest; and
- (b) that person knows, or has reasonable grounds for believing, that that person has an interest under that trust.

(6) A person is also deemed to have an equity interest if that person —

- (a) has entered into a contract to purchase the equity interest;
- (b) has a right, otherwise than by reason of having an interest under a trust, to have the equity interest transferred to (or to the order of) that person, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;
- (c) has the right to acquire the equity interest under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or
- (d) is entitled (otherwise than by reason of having been appointed a proxy or representative to vote at a general meeting of the entity in question) to exercise or control the exercise of a right attached to the equity interest, not being an equity interest in which that person has a legal or equitable interest.

(7) A person is not to be deemed as not having an equity interest by reason only that the person has the equity interest jointly with another person.

Meanings of “associate”, “subsidiary” and “holding company”

86C.—(1) In this Part, a person (*A*) is an associate of another person (*B*) if —

- (a) *A* is the spouse, or a parent, step-parent or remoter lineal ancestor, or a son, stepson, daughter, stepdaughter or remoter issue, or a brother or sister, of *B*;
- (b) *A* is a partner of *B* in a partnership or limited liability partnership;
- (c) *A* is a corporation of which *B* is an officer;
- (d) *B* is a corporation of which *A* is an officer;
- (e) *A* and *B* are officers of the same corporation;
- (f) *A* is an employee of *B*;
- (g) *B* is an employee of *A*;
- (h) *A* and *B* are employees of the same employer;
- (i) *A* is the trustee of a discretionary trust where *B* (or another person who is an associate of *B* by virtue of any paragraph (except this paragraph and paragraphs (*j*) and (*r*)) of this subsection benefits, or is capable (whether by exercise of a power of appointment or otherwise) of benefitting, under the trust, either directly or through interposed entities or trusts;
- (j) *B* is the trustee of a discretionary trust where *A* (or another person who is an associate of *A* by virtue of any paragraph (except this paragraph and paragraphs (*i*) and (*r*)) of this subsection benefits, or is capable (whether by exercise of a power of appointment or otherwise) of benefitting, under the

trust, either directly or through interposed entities or trusts;

- (k) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (l) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (m) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
- (n) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;
- (o) *A* is a related corporation of *B*;
- (p) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in paragraphs (b) to (o), is in a position to control not less than 20% of the voting power in *A*;
- (q) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in paragraphs (b) to (o), is in a position to control not less than 20% of the voting power in *B*; or
- (r) *A* is a person with whom *B* enters, or proposes to enter, into an agreement or arrangement (whether oral or in writing and whether express or implied) that relates to any of the following matters:

- (i) *A* and *B* being in a position, by acting together, to control any of the voting power in a designated public licensee, designated business trust or designated equity interest holder;
- (ii) *A* and *B* acting together with respect to the acquisition, holding or disposal of equity interests or other interests in a designated public licensee, designated business trust or designated equity interest holder;
- (iii) the power of *A* and *B*, by acting together, to appoint or remove a director of a designated public licensee or designated equity interest holder, or a director of the trustee-manager of a designated business trust;
- (iv) the situation where one or more of the directors of —
 - (A) a designated public licensee or designated equity interest holder; or
 - (B) the trustee-manager of a designated business trust,are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of *A* and *B* acting together.

(2) A corporation (*A*) and another corporation (*B*) are deemed to be related to each other for the purposes of this section where *A* is —

- (a) the holding company of *B*;
- (b) a subsidiary of *B*; or
- (c) a subsidiary of the holding company of *B*.

(3) For the purposes of subsection (2), a corporation (*A*) is, subject to subsection (5), deemed to be a subsidiary of another corporation (*B*) if —

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- (a) *B* controls the composition of the board of directors of *A*;
 - (b) *B* controls more than half of the voting power of *A*; or
 - (c) *A* is a subsidiary of any corporation which is *B*'s subsidiary.

(4) For the purposes of subsection (3), the composition of *A*'s board of directors is deemed to be controlled by *B* if *B*, by the exercise of some power exercisable by it without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors, and for the purposes of this provision, *B* is deemed to have power to make such an appointment if —

- (a) a person cannot be appointed as a director without the exercise in the person's favour by *B* of such a power; or
- (b) a person's appointment as a director follows necessarily from that person being a director or other officer of *B*.

(5) In determining whether one corporation (*A*) is the subsidiary of another corporation (*B*) —

- (a) any shares held or power exercisable by *B* in a fiduciary capacity is treated as not held or exercisable by *B*;
- (b) subject to paragraphs (c) and (d), any shares or power exercisable —
 - (i) by any person as a nominee for *B* (except where *B* is concerned only in a fiduciary capacity); or
 - (ii) by, or by a nominee for, a subsidiary of *B*, not being a subsidiary which is concerned only in a fiduciary capacity,

is to be treated as being held or exercisable by *B*;

- (c) any shares held or exercisable by any person by virtue of the provisions of any debentures of *A*, or of a trust

deed for securing any issue of such debentures, are to be disregarded; and

- (d) any shares held or exercisable by, or by a nominee for, *B* or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) is to be treated as not held or exercisable by *B* if the ordinary business of *B* or its subsidiary, as the case may be, includes the lending of money and the shares are so held or power is so exercisable by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

(6) A reference in this section to the holding company of a corporation is to be read as a reference to a corporation of which the last mentioned corporation is a subsidiary.

(7) For the purposes of this section, the Depository is not to be regarded as a holding company of a corporation by reason only of the shares it holds in that corporation as a bare trustee.

(8) The Authority may, with the approval of the Minister, make regulations prescribing that any person or class of persons are not associates of another person for the purposes of any provision of this Part.

(9) In this section, “officer”, in relation to a corporation, means a director or secretary of, or any person employed in an executive capacity by, the corporation.

Designation of public licensees, business trusts and equity interest holders

86D. The Authority may, after consultation with the Minister, by notification in the *Gazette* —

- (a) designate a public licensee as a designated public licensee;
- (b) designate, as a designated business trust, a business trust that is established wholly or partly in respect of a business operated or managed by a trustee-manager licensed under section 81 to provide any marine

service or facility or any port service or facility in or through that business; or

- (c) designate a person who holds any equity interest in a designated public licensee or designated business trust as a designated equity interest holder,

if the Authority considers that such designation is necessary in the public interest.

Notice to Authority by 5% controller

86E.—(1) If a person becomes a 5% controller of a designated public licensee, designated business trust or designated equity interest holder as a result of an increase in the holding of equity interest, or in the voting power controlled, by that person or any associate of that person, that person must within 7 days after becoming the 5% controller give notice in writing to the Authority of that fact.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) In any proceedings for an offence in relation to a contravention of subsection (1), it is a defence for the accused to prove that the accused —

- (a) was not aware of the contravention when it occurred; and

- (b) notified the Authority of the contravention within a period of 14 days after becoming aware of the contravention.

(4) In any proceedings for an offence in relation to a contravention of subsection (1), it is also a defence for the accused to prove that, though the accused was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the holding of equity interest, or in the voting power controlled, by any of the associates of the accused, in the designated public licensee, designated business

trust or designated equity interest holder, as the case may be;

- (b) the accused has no agreement or arrangement (whether oral or in writing and whether express or implied) with that associate with respect to the acquisition, holding or disposal of equity interests or other interests, or under which they act together in exercising their voting power, in relation to the designated public licensee, designated business trust or designated equity interest holder, as the case may be; and
- (c) the accused notified the Authority of the contravention within a period of 7 days after the contravention of subsection (1).

(5) Except as provided in subsections (3) and (4), it is not a defence in any proceedings for an offence in relation to a contravention of subsection (1) to prove that the accused did not intend to or did not knowingly contravene subsection (1).

Approvals of Authority in relation to equity interests and control of voting power in certain cases

86F.—(1) Except with the prior written approval of the Authority, a person must not —

- (a) as a result of an increase in the holding of equity interest, or in the voting power controlled, by that person or any associate of that person, become a 25% controller or 50% controller of a designated public licensee, designated business trust or designated equity interest holder; or
- (b) as a result of a decrease in the holding of equity interest, or in the voting power controlled, by that person or any associate of that person, cease to be a 50% controller or 75% controller of a designated public licensee, designated business trust or designated equity interest holder.

(2) Subsection (1) does not apply where the transaction through which a person becomes a 25% controller or 50% controller, or ceases to be a 50% controller or 75% controller, is entered into before the relevant date.

(3) A person must not become an indirect controller of a designated public licensee, designated business trust or designated equity interest holder on or after the relevant date, unless the person has obtained the prior written approval of the Authority.

(4) The Authority may approve an application under subsection (1)(a) or (3) if the Authority is satisfied —

(a) that the person who is to become a 25% controller or 50% controller or an indirect controller of a designated public licensee, designated business trust or designated equity interest holder, as the case may be, and every associate of that person, is a fit and proper person;

(b) that having regard to the influence of —

(i) the person mentioned in paragraph (a); and

(ii) every associate of that person,

the designated public licensee, designated business trust or the designated equity interest holder, as the case may be, will continue to conduct its business prudently and comply with the provisions of this Act; and

(c) that it is in the public interest to do so.

(5) The Authority may approve an application under subsection (1)(b) if the Authority is satisfied that —

(a) the provision of any marine service or facility or any port service or facility by —

(i) the designated public licensee of which the applicant is a 50% controller or 75% controller;

- (ii) the trustee-manager of the designated business trust of which the applicant is a 50% controller or 75% controller; or
- (iii) in the case where the applicant is a 50% controller or 75% controller of a designated equity interest holder, the designated public licensee or the trustee-manager of the designated business trust, in relation to which the designated equity interest holder is so designated,

as the case may be, will continue to be reliable, efficient and economical with reference to recognised international standards and any codes or standards issued or set by the Authority;

- (b) the designated public licensee mentioned in paragraph (a)(i) or (iii) will continue to conduct its business prudently and comply with the provisions of this Act, or the trustee-manager mentioned in paragraph (a)(ii) or (iii) will continue to conduct the business of the designated business trust prudently and comply with the provisions of this Act; and
- (c) it is in the public interest to do so.

(6) An approval of the Authority under this section may be granted subject to such conditions as the Authority considers appropriate to impose.

(7) Any condition imposed by the Authority under subsection (6) has 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 designated public licensee, designated business trust or designated equity interest holder in relation to which the application for approval under subsection (1) or (3) is made.

(8) Any person who is aggrieved by the refusal of the Authority to grant an approval required under subsection (1) or (3), or by the imposition under subsection (6) of any condition,

may within 14 days after being informed of the refusal or the imposition of the condition, as the case may be, appeal to the Minister whose decision is final.

(9) Any person who contravenes subsection (1) or (3) shall be guilty of an offence.

(10) In any proceedings for an offence in relation to a contravention of subsection (1), it is a defence for the accused to prove that —

- (a) the accused was not aware of the contravention when it occurred;
- (b) the accused notified the Authority of the contravention within a period of 14 days after becoming aware of the contravention; and
- (c) where the Authority issued any direction under section 86G relating to the contravention and the holding of equity interests or the control of voting power by the accused in the designated public licensee, designated business trust or designated equity interest holder, as the case may be —
 - (i) the accused complied with the direction within the period determined by the Authority under that section; or
 - (ii) the period determined by the Authority under that section for the compliance of the direction has not expired.

(11) In any proceedings for an offence in relation to a contravention of subsection (1), it is also a defence for the accused to prove that even though the accused was aware of the contravention —

- (a) the contravention occurred as a result of an increase or decrease in the holding of equity interest, or in the voting power controlled, by any of the associates of the accused, in the designated public licensee,

designated business trust or designated equity interest holder, as the case may be;

- (b) the accused has no agreement or arrangement (whether oral or in writing and whether express or implied) with that associate with respect to the acquisition, holding or disposal of equity interests or other interests, or under which they act together in exercising their voting power, in relation to the designated public licensee, designated business trust or designated equity interest holder, as the case may be;
- (c) the accused notified the Authority of the contravention within a period of 7 days after the contravention; and
- (d) where the Authority issued any direction under section 86G relating to the contravention and the holding of equity interests or the control of voting power by the accused in the designated public licensee, designated business trust or designated equity interest holder, as the case may be —
 - (i) the accused complied with the direction within the period determined by the Authority under that section; or
 - (ii) the period determined by the Authority under that section for the compliance of the direction has not expired.

(12) In any proceedings for an offence in relation to a contravention of subsection (3), it is a defence for the accused to prove that —

- (a) the accused was not aware of the contravention when it occurred;
- (b) the accused notified the Authority of the contravention within a period of 14 days after the contravention; and

(c) where the Authority issued any direction under section 86G relating to the contravention and the accused becoming an indirect controller of the designated public licensee, designated business trust or designated equity interest holder, as the case may be —

- (i) the accused complied with the direction within the period determined by the Authority under that section; or
- (ii) the period determined by the Authority under that section for the compliance of the direction has not expired.

(13) Except as provided in subsections (10), (11) and (12), it is not a defence in any proceedings for an offence in relation to a contravention of subsection (1) or (3) to prove that the accused did not intend to or did not knowingly contravene subsection (1) or (3), as the case may be.

(14) In subsections (2) and (3), “relevant date” means the 14th day after the date of commencement of section 8 of the Maritime and Port Authority of Singapore (Amendment) Act 2017.

Remedial directions

86G.—(1) Subsection (2), (3) or (4) applies if the Authority is satisfied that —

- (a) the person mentioned in that subsection has contravened section 86F(1) or (3) (called in this section a defaulter);
- (b) any condition of approval imposed on the defaulter under section 86F(6) has not been complied with; or
- (c) the defaulter has furnished false or misleading information or documents in connection with an application for approval under section 86F(1) or (3).

(2) Where a defaulter is a 25% controller or 50% controller of a designated public licensee, designated business trust or

designated equity interest holder, the Authority may do any one or more of the following:

- (a) direct the defaulter to take such steps as are necessary, within such period as may be specified by the Authority, to cease to be a 25% controller or 50% controller, as the case may be, of the designated public licensee, designated business trust or designated equity interest holder, as the case may be;
- (b) direct the transfer or disposal of all or any of the equity interest in the designated public licensee, designated business trust or designated equity interest holder, as the case may be, held by the defaulter or any of the defaulter's associates (called in this section and section 86H the specified equity interest), within such time and subject to such conditions as the Authority considers appropriate;
- (c) restrict the transfer or disposal of all or any of the specified equity interest, subject to such conditions as the Authority considers appropriate;
- (d) make such other direction as the Authority considers appropriate.

(3) Where, as a result of a person (called in this subsection the transferee) acquiring any equity interest from a defaulter who is a 50% controller or 75% controller of a designated public licensee, designated business trust or designated equity interest holder (called in this section and section 86H the specified acquired equity interest), the defaulter ceases to be a 50% controller or 75% controller, as the case may be, the Authority may do any one or more of the following:

- (a) direct the transferee to take such steps as are necessary, within such period as may be specified by the Authority, to cease to hold all or any of the specified acquired equity interest;
- (b) direct the defaulter to take such steps as are necessary within such period as may be specified by the

Authority, to resume being a 50% controller or 75% controller, as the case may be;

- (c) direct the acquisition, transfer or disposal of all or any of the specified acquired equity interest within such time and subject to such conditions as the Authority considers appropriate;
- (d) restrict the transfer or disposal of all or any of the specified acquired equity interest, subject to such conditions as the Authority considers appropriate;
- (e) make such other direction as the Authority considers appropriate.

(4) Where a defaulter is an indirect controller of a designated public licensee, designated business trust or designated equity interest holder, the Authority may do one or both of the following:

- (a) direct the defaulter, or direct the designated public licensee, the trustee-manager of the designated business trust, or the designated equity interest holder, as the case may be, to take such steps as are necessary, within such period as may be specified by the Authority, to cease to be such an indirect controller or to cause the defaulter to cease to be such an indirect controller;
- (b) make such other direction as the Authority considers appropriate.

(5) Before issuing any direction to a person under subsection (2), (3) or (4), the Authority must —

- (a) unless the Authority decides that it is not practicable or desirable to do so, give the person written notice of the Authority's intention to issue the direction and to specify a date by which the person may make written representations with regard to the direction; and

(b) consider every written representation from the person received on or before the specified date mentioned in paragraph (a).

(6) The Authority may, at any time, revoke, vary or discharge any direction given by it under subsection (2), (3) or (4) or suspend the operation of any such direction.

(7) Any person who is aggrieved by the Authority's decision to issue a direction under subsection (2), (3) or (4) or to vary a direction under subsection (6) may, within 14 days after being informed of the decision, appeal to the Minister whose decision is final.

(8) Despite the fact that any appeal under subsection (7) is pending, any direction issued by the Authority under subsection (2), (3) or (4) and any variation of a direction under subsection (6), takes effect from the date specified by the Authority, unless the Minister otherwise directs.

(9) Any person who fails to comply with a direction issued by the Authority under subsection (2), (3) or (4) (including a direction that is varied under subsection (6)) within the period specified by the Authority, shall be guilty of an offence.

Effect of remedial directions, etc.

86H.—(1) Any direction issued to a person, and any condition imposed, under section 86G(2) or (3) takes effect, despite —

- (a) the Business Trusts Act (Cap. 31A), the Companies Act (Cap. 50) and the Limited Liability Partnerships Act (Cap. 163A);
- (b) anything in any listing rules as defined in section 2(1) of the Securities and Futures Act (Cap. 289); and
- (c) the provisions of the memorandum or articles of association, trust deed or other constitution of the designated public licensee, designated business trust or designated equity interest holder in question.

(2) Without affecting subsection (1), where any direction is issued under section 86G(2) or (3), then, until the direction is carried out or is suspended or revoked —

- (a) the voting rights in respect of the specified equity interest or specified acquired equity interest that is subject to the direction, are not exercisable unless the Authority expressly permits such rights to be exercised;
- (b) the voting power that the person to whom the direction is issued controls, whether alone or together with that person's associates, in the designated public licensee, designated business trust or designated equity interest holder, as the case may be, is not exercisable unless the Authority expressly permits such power to be exercised;
- (c) no equity interest in the designated public licensee, designated business trust or designated equity interest holder is to be issued or offered (whether by way of dividends or otherwise) in respect of the specified equity interest or specified acquired equity interest that is subject to the direction, unless the Authority expressly permits such issue or offer; and
- (d) no amount may be paid (whether by way of profits, income or otherwise) in respect of the specified equity interest or specified acquired equity interest that is subject to the direction, unless the Authority expressly authorises such payment.

(3) Subsection (2)(d) does not apply in the event of a winding up of the designated public licensee, designated business trust or designated equity interest holder, as the case may be.

Penalties under this Part

86I. A person guilty of an offence under this Part shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part of a day during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part of a day during which the offence continues after conviction.”.

New Part XIII A

9. The principal Act is amended by inserting, immediately after section 89, the following Part:

“PART XIII A

REGULATION OF INLAND CRAFT

Administration of this Part

89A.—(1) The Chief Executive may in writing —

- (a) authorise any officer or employee of the Authority; or
- (b) appoint any officer of another statutory body,

as an appointed officer for the purposes of regulating inland craft under this Act.

(2) Every appointed officer, when exercising and carrying out any of the powers and duties of an appointed officer under this Act, must comply with such general or specific directions as the Chief Executive may, from time to time, give to the appointed officer.

Power to board inland craft, etc.

89B.—(1) Without limiting any powers under Parts XV and XVI, any appointed officer may exercise all or any of the powers in subsection (2) for the purpose of —

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- (a) ascertaining whether the provisions of the regulations made under section 89C are being complied with; or
 - (b) investigating any offence under the regulations made under section 89C.
- (2) The powers mentioned in subsection (1) are as follows:
- (a) to board any inland craft;
 - (b) to search any inland craft and take possession of any thing found on board the inland craft;
 - (c) to require any person to produce any record, certificate, notice or document that is in the person's possession;
 - (d) to take and retain extracts or copies of any record, certificate, notice or document mentioned in paragraph (c);
 - (e) to take and retain samples of any materials (whether solid, liquid, gaseous or vapour) found on board the inland craft for analysis for the purpose in subsection (1)(a) or (b);
 - (f) to take such photographs as the officer reasonably believes to be necessary for the purpose in subsection (1)(a) or (b);
 - (g) to require any person to —
 - (i) furnish evidence of the person's identity; or
 - (ii) produce for inspection any papers relating to the registration of the inland craft or for the purpose of identifying the inland craft.

Power to make regulations

89C.—(1) The Authority may, with the approval of the Minister, make regulations for the purposes of this Part, including all or any of the following matters:

- (a) the construction of inland craft, including the machinery, equipment, fittings, installations, appliances and apparatus of inland craft;
- (b) the maintenance of inland craft, including the provision, maintenance and stowage of life-saving and fire-fighting appliances and apparatus;
- (c) the survey of inland craft, and the issue, suspension, cancellation or extension and period of validity of certificates or exemption certificates relating to such survey, and the types and forms of the certificates;
- (d) the measures and standards to be complied with where dangerous cargoes are conveyed, utilised, stowed or kept on board any inland craft while within any reservoir or waterway;
- (e) the safe operation and navigation of inland craft in reservoirs and waterways, and their use of navigation lights and signals in the reservoirs and waterways and the steps to be taken for avoiding collision;
- (f) the qualifications required for manning inland craft, including requiring officers and crew of inland craft to satisfy all or any of the following requirements:
 - (i) to undergo any specified training;
 - (ii) to attain a certain standard of competence or a certain grade in a specified examination;
 - (iii) to obtain any specified licence, certificate or approval;
- (g) provide that any contravention or failure to comply with any regulations made under this section is an offence punishable with —
 - (i) a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months or both; and
 - (ii) in the case of a continuing offence, a further fine not exceeding \$250 for every day or part of a

day during which the offence continues after conviction.

(2) The Authority may, in making regulations under subsection (1), incorporate by reference —

- (a) any regulation made by the Authority under section 119 or under the Merchant Shipping Act (Cap. 179), with or without modification; or
- (b) any recognised international standard, code or guideline relating to the safety of operation and navigation of, the standards of construction of, the manning of, or the loading or carriage of goods (including dangerous goods) on, vessels or inland craft.

(3) For the purposes of subsection (2)(b), the Authority may incorporate by reference any standard, code or guideline mentioned in that provision —

- (a) either as in force on a particular date specified or as amended from time to time; and
- (b) with or without modification.

(4) The Authority must cause all standards, codes or guidelines incorporated by it under subsection (2)(b) to be published in a manner that gives persons to whom the standards, codes or guidelines relate adequate notice of the requirements specified in the standards, codes or guidelines.”.

Amendment of section 97

10. Section 97 of the principal Act is amended —

- (a) by deleting the words “, obstructs or molests” and substituting the words “or obstructs”;
- (b) by inserting, immediately after the word “contractors”, the words “, or any appointed officer,”; and
- (c) by inserting, immediately after the word “Authority” in the section heading, the word “, etc.,”.

New section 97A

11. The principal Act is amended by inserting, immediately after section 97, the following section:

“Power to examine and secure attendance

97A.—(1) Any duly authorised officer of the Authority may do all or any of the following for the purposes of investigating into any matter under this Act:

- (a) issue a written order requiring anyone within the limits of Singapore, who appears to be acquainted with any of the facts and circumstances of the matter, to attend before any duly authorised officer of the Authority;
- (b) examine orally any person who appears to be acquainted with the facts and circumstances of the matter, and require that person to answer questions relating to the matter and posed by any duly authorised officer of the Authority, whether or not —
 - (i) that person or any other person is charged with an offence in connection with the matter; and
 - (ii) that person is to be called as a witness in any inquiry, trial or other proceeding in connection with the matter;
- (c) require any person to provide to any duly authorised officer of the Authority any information or document in the possession of that person in connection with the matter;
- (d) without payment, inspect, keep, copy or take extracts from any document mentioned in paragraph (c).

(2) A person examined under subsection (1)(b) is bound to state truly what the person knows of the facts and circumstances concerning the matter in question, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

(3) A statement made by any person examined under this section must —

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- (a) be reduced to writing;
 - (b) be read over to the person;
 - (c) if the person does not understand English, be interpreted to the person in a language that the person understands; and
 - (d) after correction, if necessary, be signed by the person.

(4) If any person fails to attend as required by an order issued under subsection (1)(a), any duly authorised officer of the Authority may report such failure to the Magistrate who may then, in the Magistrate's discretion, issue a warrant ordering the person to attend.

(5) Any person who —

- (a) intentionally alters, suppresses or destroys any document that the person is required to provide under subsection (1); or
- (b) in providing any information required of the person under subsection (1), makes any statement that the person knows to be false in any material particular,

shall be guilty of an offence.

(6) The Chief Executive may authorise an appointed officer to exercise any of the powers of a duly authorised officer of the Authority under this section for the purposes of investigating any matter under regulations made under section 89C in which case, a reference to a duly authorised officer of the Authority is to be read as a reference to the appointed officer.”.

Amendment of section 98

12. Section 98(1) of the principal Act is amended by deleting the words “or a member of a committee of the Authority” and substituting the words “, a member of a committee of the Authority or an appointed officer”.

Repeal and re-enactment of section 102

13. Section 102 of the principal Act is repealed and the following section substituted therefor:

“Composition of offences

102.—(1) Any police officer not below the rank of sergeant authorised by name in that behalf by the Minister, or any employee or officer of the Authority authorised in that behalf by the Chief Executive, may compound any offence under this Act or the regulations made under this Act that is prescribed as a compoundable offence by collecting from the 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) Without limiting subsection (1), any appointed officer authorised in that behalf by the Chief Executive may exercise the power under subsection (1) in relation to any offence under the regulations made under section 89C that is prescribed as a compoundable offence.

(3) On payment of such sum of money under subsection (1) or (2), no further proceedings are to be taken against that person in respect of the offence.

(4) The Authority may, with the approval of the Minister, make regulations under section 119 prescribing the offences that may be compounded.”.

Amendment of section 103

14. Section 103 of the principal Act is amended by deleting the words “funds of the Authority” and substituting the words “Consolidated Fund”.

Amendment of section 111

15. Section 111 of the principal Act is amended —

- (a) by deleting the words “and by any employee authorised thereunto by the Authority” in subsection (1);
- (b) by inserting, immediately after subsection (1), the following subsection:
 - “(1A) Any notice, order, receipt or other document or information which the Authority is empowered to give —
 - (a) under this Act or its regulations, may be given by any duly authorised employee or officer of the Authority; or
 - (b) under the regulations made under section 89C, may also be given by any appointed officer authorised by the Chief Executive for the purposes of this section.”;
- (c) by deleting the words “or any employee authorised thereunto by the Authority” in subsection (2) and substituting the words “, the employee or officer of the Authority mentioned in subsection (1A)(a) or the appointed officer mentioned in subsection (1A)(b),”;
- (d) by deleting the words “authorised officer” in the section heading and substituting the words “authorised employee or officer, etc.”.

Amendment of section 115

16. Section 115 of the principal Act is amended —

- (a) by inserting, immediately after the words “or any employee” in subsection (1), the words “or officer”;
- (b) by deleting the words “as may be required by such police officer or employee of the Authority” in subsection (1) and substituting the words “so required”; and

- (c) by deleting the words “by any police officer or any employee of the Authority under this section” in subsection (2) and substituting the words “under subsection (1)”.

Amendment of section 118

17. Section 118 of the principal Act is amended —

- (a) by inserting, immediately after the word “vessel” in subsection (1), the words “, inland craft”;
- (b) by inserting, immediately after the word “vessels” in subsection (1), the words “, inland craft”; and
- (c) by inserting, immediately after the word “vessel” in subsection (2), the words “or inland craft”.

Related amendments to Public Utilities Act

18. Section 72 of the Public Utilities Act (Cap. 261) is amended —

- (a) by deleting the word “operated” in subsection (2)(n)(ii) and substituting the words “used in operations”;
- (b) by deleting sub-paragraphs (iii), (iv) and (v) of subsection (2)(n) and substituting the following sub-paragraphs:
- “(iii) the insurance requirements for such vessels;
- (iv) the removal of vessels and wrecks, and the reporting of accidents, in reservoirs and waterways; and”;
- (c) by inserting, immediately after subsection (2), the following subsection:
- “(2A) The regulations made under subsection (2)(n)(ii) may provide that the Board may refuse to grant, extend or renew a permit for the use of a vessel in reservoirs and waterways if any regulation made under section 89C of the Maritime

and Port Authority of Singapore Act (Cap. 170A) is contravened in relation to the vessel.”.

Saving and transitional provisions

19.—(1) Despite section 13, section 102 of the principal Act as in force immediately before the date of commencement of section 13 continues to apply in relation to any offence committed or reasonably suspected to have been committed before that date, as if section 13 had not been enacted.

(2) Section 18 does not affect —

- (a) any investigation, in relation to any vessel which may be operated in a waterway or reservoir, commenced under the Public Utilities Act (Cap. 261) before the date of commencement of section 18, and every such investigation may be continued and everything in relation to such investigation may be done in all respects after that date as if section 18 had not been enacted; and
- (b) the continued operation or force of any order or decision, in relation to any such vessel, made by the Public Utilities Board under the Public Utilities Act before the date of commencement of section 18.

(3) 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.
