



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE
BILLS SUPPLEMENT

Published by Authority

NO. 10]

THURSDAY, MARCH 12

[2015

First published in the *Government Gazette*, Electronic Edition, on 12th March 2015 at 3:00 pm.

Notification No. B 10 — The Housing and Development (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 12th day of March 2015.

Housing and Development (Amendment) Bill

Bill No. 10/2015.

Read the first time on 12 March 2015.

A BILL

i n t i t u l e d

An Act to amend the Housing and Development Act (Chapter 129 of the 2004 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 may be cited as the Housing and Development (Amendment) Act 2015 and comes into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2(1) of the Housing and Development Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the definition of “Master Plan”, the following definition:

““officer” means an officer of the Board;”.

10 New sections 26A, 26B and 26C

3. The principal Act is amended by inserting, immediately after section 26, the following sections:

“Power to enter upon notice or under warrant

15 **26A.**—(1) The Board may, by one or more of its officers or persons authorised by the Board (in this section called an authorised officer and authorised person, respectively), enter any premises at any reasonable time, on giving 24 hours’ notice of its intention to do so to the owner or occupier of the premises, to do either or both of the following:

20 (a) investigate whether any urgent repairs or works are required to be carried out in the premises;

(b) carry out the urgent repairs or works.

25 (2) There must be at least one authorised officer present in the premises at all times during the conduct of any investigation or carrying out of any urgent repairs or works under subsection (1) in those premises.

(3) Before entering the premises under subsection (1), an authorised officer must produce, if so required —

30 (a) his original identity card or such identification card as the Chief Executive Officer may direct to be carried by the authorised officer as proof of his identity; and

(b) some duly authenticated document showing his authority.

(4) If it is shown to the satisfaction of a Magistrate on sworn information in writing that there is reasonable ground for entry into the premises for either or both of the purposes specified in subsection (1) and —

(a) that entry into the premises has been refused, or that refusal is apprehended; or

(b) that the premises are unoccupied or the owner or occupier is temporarily absent,

the Magistrate may by warrant authorise the Board by one or more authorised officers or authorised persons to enter the premises forcibly, if necessary.

(5) The warrant continues in force until the purpose for which the entry is necessary has been satisfied.

(6) There must be at least one authorised officer present in the premises at all times during the execution of the warrant.

(7) If the owner or occupier is present when an authorised officer or authorised person seeks to execute the warrant, the authorised officer must —

(a) identify himself to the owner or occupier;

(b) show the owner or occupier —

(i) his original identity card or such identification card as the Chief Executive Officer may direct to be carried by the authorised officer as proof of his identity; and

(ii) some duly authenticated document showing his authority;

(c) show the owner or occupier the warrant; and

(d) if required, give the owner or occupier a copy of the warrant.

(8) If the owner or occupier is not present when entry under subsection (7) is sought, but some other person who appears to be in charge of the premises is present, then subsection (7) applies to that other person as if he were the owner or occupier.

5 (9) An authorised officer or authorised person entering the premises under a warrant issued under subsection (4) may do all or any of the following:

(a) break open any outer or inner door or window leading to the premises;

10 (b) forcibly enter the premises and every part of the premises;

(c) remove by force any obstruction to the entry.

15 (10) An authorised officer or authorised person entering the premises under subsection (1), or under a warrant issued under subsection (4), may do either or both of the following:

(a) take with him such other persons as may be necessary;

20 (b) remove or demolish any fixtures or fittings in the premises if such removal or demolition is necessary for the conduct of any investigation or carrying out of any urgent repairs or works under this section.

(11) If the premises are unoccupied at the time of entry, the authorised officer or authorised person must leave the premises as effectually secured against trespassers as he found the premises.

25 (12) Subject to subsection (11), the Board is not liable to compensate the owner or occupier for any loss (including reinstatement costs) incurred by the owner or occupier, or for any damage caused to the premises, as a result of anything done with reasonable care and in good faith under subsection (10)(b).

30 (13) Where the Board has carried out any repairs or works in the premises under this section, the Board may recover from the owner, as a debt due to the Board, the costs incurred by the Board in respect of the repairs or works.

(14) The Board must serve a written notice on the owner requiring payment of the costs recoverable under subsection (13), and the owner must make payment within one month after the date of the written notice or within such other period as the Board may specify in the written notice. 5

(15) In this section and section 26B, “premises” means any flat, house or other building sold, leased or rented out by the Board under this Act.

Power to enter without notice or warrant

26B.—(1) If there are reasonable grounds to believe in respect of any premises that there is an imminent danger which affects public safety or public health, the Board may, by one or more of its officers or persons authorised by the Board (in this section called an authorised officer and authorised person, respectively), enter the premises without warrant to do either or both of the following: 10 15

(a) investigate whether any urgent repairs or works are required to be carried out in the premises to remove or prevent that danger;

(b) carry out the urgent repairs or works. 20

(2) There must be at least one authorised officer present in the premises at all times during the conduct of any investigation or carrying out of any urgent repairs or works under subsection (1) in those premises.

(3) If the owner or occupier of the premises is present when an authorised officer or authorised person seeks to enter the premises, the authorised officer must show the owner or occupier — 25

(a) such identification card as the Chief Executive Officer may direct to be carried by the authorised officer as proof of his identity; and 30

(b) some duly authenticated document showing his authority.

(4) If the owner or occupier is not present when entry under subsection (3) is sought, but some other person who appears to be in charge of the premises is present, then subsection (3) applies to that other person as if he were the owner or occupier.

5 (5) An authorised officer or authorised person entering the premises under this section may do all or any of the following:

(a) take with him such other persons as may be necessary;

(b) break open any outer or inner door or window leading to the premises;

10 (c) forcibly enter the premises and every part of the premises;

(d) remove by force any obstruction to the entry;

15 (e) remove or demolish any fixtures or fittings in the premises if the removal or demolition is necessary for the conduct of any investigation or carrying out of any urgent repairs or works under this section.

20 (6) If the premises are unoccupied at the time of entry, the authorised officer or authorised person must leave the premises as effectually secured against trespassers as he found the premises.

25 (7) Subject to subsection (6), the Board is not liable to compensate the owner or occupier for any loss (including reinstatement costs) incurred by the owner or occupier, or for any damage caused to the premises, as a result of anything done with reasonable care and in good faith under subsection (5)(e).

(8) Where the Board has carried out any repairs or works in the premises under this section, the Board may recover from the owner, as a debt due to the Board, the costs incurred by the Board in respect of the repairs or works.

30 (9) The Board must serve a written notice on the owner requiring payment of the costs recoverable under subsection (8), and the owner must make payment within one month after the date of the written notice or within such other period as the Board may specify in the written notice.

Financial penalties

26C.—(1) Any financial penalty imposed on any person under this Act or any rules made under this Act must be paid to the Board and is recoverable by the Board as a debt due to the Board from that person. 5

(2) Where a financial penalty is imposed on a person in relation to a licence or lease, the person’s liability to pay is not affected by the licence or lease ceasing, for any reason, to be in force.

(3) The Board may, in any case it thinks fit, remit or refund, wholly or in part, any financial penalty payable under this Act or any rules made under this Act. 10

(4) The power of the Board to impose a financial penalty under this Act or any rules made under this Act is exercisable only if the contravention in respect of which the financial penalty is imposed is not an offence under this Act or any of those rules.”. 15

Amendment of section 27

4. Section 27 of the principal Act is amended —

(a) by inserting, immediately after the word “rule” in subsection (2)(c), the words “(except a rule made under paragraph (ba))”; 20

(b) by deleting the word “and” at the end of subsection (2)(d);

(c) by deleting the words “penalty (such penalty, if unpaid, to constitute a debt due to the Board and be recoverable as such)” in subsection (2)(e) and substituting the words “financial penalty (not exceeding \$5,000)”; 25

(d) by deleting the full-stop at the end of paragraph (e) of subsection (2) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(f) prescribing a right to appeal to the Minister (whose decision is to be final) against any financial penalty imposed under this Act or any rules made under this Act and the appeal procedures.”; 30

(e) by deleting the word “and” at the end of paragraph (c) of subsection (2A), and by inserting immediately thereafter the following paragraph:

5 “(ca) the power of the Board to forfeit (in part or in whole) the security deposited by a licensee under any rule made under paragraph (c) for any contravention of any obligation imposed on the licensee by the licence or by this Act;”;

10 (f) by deleting the full-stop at the end of paragraph (d) of subsection (2A) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(e) the power of the Board to impose a financial penalty not exceeding \$10,000 on a licensee for contravention of any licence condition; and

15 (f) that any act or omission in contravention of any rule made under subsection (2)(ba) shall be an offence punishable with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 12 months or with both.”; and

20 (g) by inserting, immediately after subsection (2A), the following subsections:

25 “(2B) Where any financial penalty is imposed under any rule made under subsection (2A)(e) on a licensee for contravening any licence condition, any security deposited by the licensee in respect of that licence under any rule made under subsection (2A)(c) is not to be forfeited under any rule made under subsection (2A)(ca) for that contravention except to the extent to pay the financial penalty.

30 (2C) Any reference to a licence in subsections (2A) and (2B) includes a reference to a permit or a registration scheme authorising the carrying out of any renovation in any flat, house or other building sold under this Act.”.

Amendment of section 27A

5. Section 27A of the principal Act is amended —

- (a) by deleting “\$2,000” in subsection (1)(b) and substituting “\$5,000”; and
- (b) by deleting the words “funds of the Board” in subsection (3) and substituting the words “Consolidated Fund”. 5

Amendment of section 50

6. Section 50(4) of the principal Act is amended by deleting the words “sections 55, 56 and 61” and substituting the words “sections 55 and 56”. 10

Amendment of section 56

7. Section 56 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

“(3A) Where the owner or interested person is deceased —

- (a) any reference to the owner or interested person in subsections (3) to (6) includes a reference to any legal personal representative of the deceased; 15
- (b) if no legal personal representative is appointed in respect of the deceased owner, any notice required to be served by the Board on the deceased owner under this section may be served by affixing a copy of the notice in a conspicuous place at the flat, house or other living accommodation; and 20
- (c) if no legal personal representative is appointed in respect of the deceased interested person, any notice required to be served by the Board on the interested person under this section may be served by affixing a copy of the notice in a conspicuous place at the last known place of residence of the interested person immediately before the interested person’s death.”. 25 30

New sections 56A and 56B

8. The principal Act is amended by inserting, immediately after section 56, the following sections:

“Power to inspect, search, etc.

5 **56A.**—(1) The Magistrate may, on the application of the Board, issue a warrant authorising the Board by one or more officers authorised by the Board (in this section called an authorised officer) to enter and search —

10 (a) any flat, house or other living accommodation sold subject to the provisions of Part IV; or

 (b) any other premises (whether or not sold, leased or rented out by the Board) that the owner or occupier of that flat, house or other living accommodation may be residing in,

(collectively called in this section the premises), if —

15 (i) the Magistrate has reason to believe that evidence of any ground under section 56(1) for acquiring that flat, house or other living accommodation can be found in the premises; or

20 (ii) that owner or occupier fails to comply with a written notice issued under section 56B(1)(d) to produce or give access to any document or thing, and the Magistrate has reason to believe that the document or thing can be found in the premises.

25 (2) The Magistrate may, if the Magistrate thinks fit, specify in a warrant the particular premises or part of those premises to be searched, and the authorised officer executing the warrant must then search only the specified premises or part of those premises.

30 (3) Where an authorised officer executing any search under this section demands entry into or access to any premises liable to search under this section, the owner or occupier or any person in charge of the premises must allow the authorised officer free entry or access and provide all reasonable facilities for a search in the premises.

(4) Subject to subsection (6), if free entry into or access to the premises cannot be obtained under subsection (3), it is lawful in any case for the authorised officer executing the warrant to break open any outer or inner door or window leading to the premises or to use any other reasonable means in order to gain entry into or access to the premises. 5

(5) A warrant is subject to such conditions as may be specified by the Magistrate and remains in force for the number of days stated in the warrant.

(6) The Magistrate must specify the following conditions in every warrant: 10

(a) a list or description of the documents or things, or class of documents or things, that the authorised officer executing the warrant may seize under the search;

(b) whether subsection (4) applies and, if so, the extent of its application. 15

(7) The Magistrate may, in addition to the conditions in subsection (6), specify in any warrant such conditions as the Magistrate considers necessary for the proper execution of the warrant and the prevention of any breach of the peace. 20

(8) An authorised officer entering the premises under a warrant may take such photographs, or audio or video recordings as the authorised officer thinks necessary of the premises (including anything in the premises).

(9) If the owner or occupier is present when an authorised officer seeks to execute the warrant, the authorised officer must — 25

(a) identify himself to the owner or occupier;

(b) show the owner or occupier —

(i) his original identity card or such identification card as the Chief Executive Officer may direct to be carried by the authorised officer as proof of his identity; and 30

(ii) some duly authenticated document showing his authority;

(c) show the owner or occupier the warrant; and

(d) if required, give the owner or occupier a copy of the warrant.

(10) If the owner or occupier is not present when execution of the warrant is sought under subsection (9), but some other person who appears to be in charge of the premises is present, then subsection (9) applies to that other person as if he were the owner or occupier.

(11) An authorised officer making a search under this section must prepare and sign a list of all documents and things seized during the search, including recording the location where each document or thing is found.

(12) In every case, the owner, occupier or person in charge of the premises searched, or a person acting on his behalf, may be present during the search, and must be given a signed copy of the list referred to in subsection (11).

(13) The authorised officer executing the warrant must, after duly executing the warrant, report that fact to the Magistrate and submit the list prepared under subsection (11).

Power to require evidence as to identity, examine, etc.

56B.—(1) For the purposes of investigating any ground under section 56(1) for acquiring any flat, house or other living accommodation, an officer authorised by the Board (in this section called an authorised officer) may do all or any of the following:

(a) require any person who appears to be involved in or related to the matter under investigation to furnish evidence of the person's identity;

(b) examine orally any person who appears to be acquainted with any of the facts or circumstances of the matter under investigation;

- (c) issue a written notice requiring any person within the limits of Singapore, who appears to be acquainted with any of the facts or circumstances of the matter under investigation, to attend before the authorised officer;
- (d) issue a written notice requiring any person whom the authorised officer reasonably believes to have — 5
- (i) any information; or
 - (ii) any document or thing in the person's possession, custody or control,
- relevant to the investigation, to — 10
- (A) furnish that information;
 - (B) produce that document or thing at the time and place stated in the notice; or
 - (C) give the authorised officer access to that document or thing. 15

(2) Before exercising any power under subsection (1)(a) or (b), an authorised officer must declare his office and produce —

- (a) such identification card as the Chief Executive Officer may direct to be carried by the authorised officer as proof of his identity; and 20
- (b) some duly authenticated document showing his authority.

(3) Any person examined under this section must state truly what the person knows of the facts and circumstances of the matter under investigation, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture. 25

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

- (a) be reduced to writing; 30
- (b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) after correction (if necessary), be signed by the person.

5 (5) Any person who is required by an authorised officer to do anything under subsection (1) must comply with that requirement.

10 (6) If any person fails to comply with a written notice issued to the person by an authorised officer under subsection (1)(c) or (d), the authorised officer may report such failure to a Magistrate who may then, in the Magistrate's discretion, issue a warrant ordering the person to comply with the written notice.

15 (7) If a person is required merely to produce any document or thing under subsection (1)(d), he may comply with such requirement by causing the document or thing to be produced instead of bringing it in person.”.

Amendment of section 58

9. Section 58 of the principal Act is amended —

20 (a) by deleting subsection (2) and substituting the following subsections:

“(2) The Board may apply to the Registrar of the Supreme Court for an order to deposit the compensation in court where —

25 (a) any person entitled to the compensation refuses to accept it or cannot with due diligence be found;

(b) there is any dispute as to the entitlement to or the apportionment of the compensation;

30 (c) the Board is satisfied that any person entitled to the compensation is incapacitated by reason of mental illness and no donee of a lasting power of attorney or deputy has been appointed under the Mental Capacity Act (Cap. 177A); or

(d) the person entitled to the compensation is deceased and no legal personal representative has been appointed.

(2A) An application under subsection (2) is to be made ex parte by originating summons, supported by an affidavit. 5

(2B) Despite anything to the contrary in the Rules of Court, the Registrar of the Supreme Court may make an order under subsection (2) to deposit the compensation in court.”; and 10

(b) by inserting, immediately after subsection (3), the following subsection:

“(4) Any reference to compensation in subsections (2) and (2B) includes a reference to any part of the compensation.”. 15

New section 59A

10. The principal Act is amended by inserting, immediately after section 59, the following section:

“Disposal of movable property

59A.—(1) Where the Board takes possession of a flat, house or other living accommodation under section 59, the Board may by notice in writing require the owner of that flat, house or other living accommodation to take delivery of all things and other movable property found in the flat, house or other living accommodation, at such place and within such period specified in the notice. 20 25

(2) The period specified in the notice under subsection (1) must be at least 30 days after the date of service of the notice.

(3) The Board may serve the notice under subsection (1) on the owner by affixing a copy of the notice in a conspicuous place at the flat, house or other living accommodation. 30

(4) If the owner fails to take delivery of any of the things or other movable property within the period specified in the notice

under subsection (1), the Board may dispose of that thing or other movable property by sale or otherwise as the Board thinks fit.

(5) If the Board is satisfied that any of the things or other movable property is of a perishable nature, the Board may, without giving any notice to the owner, sell or dispose of that thing or property immediately.

(6) The Board may apply the sale proceeds received under this section to meet —

(a) any expenses incurred by the Board in storing and disposing of all the things and other movable property; and

(b) any outstanding debt that the owner owes to the Board under this Act or any rules made under this Act,

before paying the balance of the sale proceeds, if any, to the owner.

(7) The Board may apply to the Registrar of the Supreme Court for an order to deposit the balance of the sale proceeds (or any part of the proceeds) in court if —

(a) the owner cannot with due diligence be found; or

(b) there is any dispute as to the entitlement to the proceeds.

(8) An application under subsection (7) is to be made *ex parte* by originating summons, supported by an affidavit.

(9) Despite anything to the contrary in the Rules of Court, the Registrar of the Supreme Court may make an order under subsection (7) to deposit the balance of the sale proceeds or any part of it in court.”.

Repeal of section 61

11. Section 61 of the principal Act is repealed.

Amendment of section 65

12. Section 65(1) of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (g); and

(b) by deleting paragraph (h) and substituting the following paragraphs:

- “(h) the power of the Board to impose a financial penalty not exceeding \$50,000 on the owner or applicant of any flat, house or other living accommodation sold under the provisions of this Part for a breach of any restriction, condition or requirement of section 47 on or after the date of commencement of section 12 of the Housing and Development (Amendment) Act 2015 where the Board does not proceed against that owner or applicant under section 47; 5
- (i) the power of the Board to impose a financial penalty not exceeding \$50,000 on the owner of any flat, house or other building sold under the provisions of this Part for a breach of any restriction, condition or requirement of section 55 on or after the date of commencement of section 12 of the Housing and Development (Amendment) Act 2015 where the Board does not proceed against that owner under section 55; and 15
- (j) the power of the Board to, instead of acquiring any flat, house or other living accommodation on any ground under section 56(1), impose a financial penalty not exceeding \$50,000 on the owner of that flat, house or other living accommodation for a breach of any restriction, condition or requirement of section 56 on or after the date of commencement of section 12 of the Housing and Development (Amendment) Act 2015.”. 25 30

Amendment of section 79

13. Section 79 of the principal Act is amended by deleting the section heading and substituting the following section heading:

“Obstruction”.

5 **Repeal and re-enactment of section 81**

14. Section 81 of the principal Act is repealed and the following section substituted therefor:

“Fines and financial penalties payable to Consolidated Fund, etc.

10 **81.—(1)** All fines and financial penalties paid or recovered under this Act or any rules made under this Act are to be paid into the Consolidated Fund.

15 (2) All members, officers and employees of the Board, in relation to their administration, assessment, collection or enforcement of payment of composition sums or financial penalties, are deemed to be public officers for the purposes of the Financial Procedure Act (Cap. 109), and section 20 of that Act applies to such persons notwithstanding that they are not or were not in the employment of the Government.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Housing and Development Act (Cap. 129) for the following main purposes:

- (a) to empower the Housing and Development Board (the Board) to enter any flat, house or other building sold, leased or rented out by the Board under the Act to carry out investigations and urgent repairs or works;
- (b) to enhance the investigation powers of the Board in relation to the compulsory acquisition of any flat, house or other living accommodation sold subject to the provisions of Part IV of the Act;
- (c) to enhance existing criminal penalties;
- (d) to make miscellaneous changes for the better administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 inserts a new definition of “officer” in section 2(1) which clarifies that the expression “officer” used in the Act refers to an officer of the Board.

Clause 3 inserts new sections 26A, 26B and 26C.

The new section 26A confers on one or more officers and other persons authorised by the Board (authorised officers and authorised persons) certain powers of entry into any flat, house or other building sold, leased or rented out by the Board under the Act (premises) to investigate whether any urgent repairs or works are required to be carried out in such premises and to carry out the urgent repairs or works. This section is adapted from relevant provisions in the existing section 65J and relevant provisions (on warrants) in the Criminal Procedure Code (Cap. 68).

The Board must give the owner or occupier of the premises at least a 24-hour notice of its intention to enter the premises. At least one authorised officer must be present in the premises during the carrying out of any investigation or urgent repairs or works.

An authorised officer must show the owner, occupier or some other person in charge of the premises the authorised officer’s original identity card (or staff identity card), some duly authenticated document showing his authority and a copy of the warrant. There is no similar requirement for authorised persons.

An authorised officer or authorised person entering the premises under a notice may remove or demolish any fixtures or fittings in the premises if such removal or demolition is necessary for the carrying out of any investigation or any urgent repairs or works. The Board is not liable to compensate the owner or occupier for any loss (including reinstatement costs) incurred by the owner or occupier or any damage caused to the premises, resulting from any removal or demolition of fixtures or fittings carried out with reasonable care and in good faith.

If the Board is unable to enter the premises, it can apply for a warrant authorising the Board by one or more authorised officers or authorised persons to enter the premises forcibly, if necessary. The Magistrate can issue a warrant to the Board to enter the premises for the purpose of an investigation, or for the purpose of carrying out any urgent repairs or works, or for both purposes. The third option will obviate the need for the Board to have to apply for a fresh warrant after investigations are completed to carry out urgent repairs or works that are necessary. The warrant has force until the purpose or purposes in respect of which the warrant is issued has or have been satisfied.

At least one authorised officer must be present in the premises during the execution of the warrant.

An authorised officer must show the owner, occupier or some other person in charge of the premises the authorised officer’s original identity card (or staff

identity card), some duly authenticated document showing his authority and a copy of the warrant.

An authorised officer or authorised person entering the premises under a warrant may remove or demolish any fixtures or fittings in the premises if such removal or demolition is necessary for carrying out any investigation or any urgent repairs or works. The Board is not liable to compensate the owner or occupier for any loss (including reinstatement costs) incurred by the owner or occupier or any damage caused to the premises, resulting from any removal or demolition of fixtures or fittings carried out with reasonable care and in good faith.

The new section 26B confers on one or more authorised officers and authorised persons the power to enter with force if necessary, without any notice to the owner or occupier and without a warrant, any premises to investigate whether any urgent repairs or works are required to be carried out in such premises and to carry out the urgent repairs or works, if there is reasonable ground for believing that there exists an imminent danger which affects public safety or public health. The repairs or works are that needed to remove or prevent that danger. This section is similar to the new section 26A, except that this section is to address circumstances where it may be impracticable or impossible to give notice to the owner or occupier or to get a warrant in time to remove or prevent the imminent danger.

The new section 26C provides that the financial penalties payable under the Act must be paid to the Board and will be recoverable by the Board as a debt due to the Board. The section also makes it clear that the Board cannot impose a financial penalty for any contravention of the Act or any rules made under the Act in cases where the contravention is an offence under the Act or any rules made under the Act.

Clause 4 amends section 27 (on power to make rules) to expand the rule-making powers of the Minister.

First, the Minister may make rules to prescribe for a person's right to appeal to the Minister against any financial penalty imposed under the Act or any rules made under the Act and the appeal procedures. The Minister's decision in any appeal is final.

Secondly, the Minister may make rules under section 27(2)(ba) (regulating the carrying out of any renovation in any flat, house or other building sold under the Act) empowering the Board to forfeit any security deposited by a lessee or registered renovation contractor for contravening any obligation imposed on the lessee or registered renovation contractor by a licence or by the Act.

Thirdly, the Minister may also make rules providing that the contravention of any rule made under section 27(2)(ba) carries a maximum fine of \$20,000 or a maximum imprisonment term of 12 months or both.

Fourthly, the Minister may make rules empowering the Board to impose a financial penalty not exceeding \$10,000 on a lessee or a registered renovation contractor for contravening any condition of a licence, the contravention of which is not an offence.

The clause also amends section 27(2)(e) to place a maximum cap of \$5,000 on financial penalties imposed under any rule made under that section.

Section 27(2B) is inserted to provide that where any financial penalty is imposed under any rule made under section 27(2A)(e) on a lessee or registered renovation contractor for the contravention of any licence condition, any security deposited by the lessee or registered renovation contractor under any rule made under section 27(2A)(e) is not to be forfeited for that contravention. However, the security deposited may be used towards enforcing the payment of the financial penalty.

Clause 5 amends section 27A (on composition of offences) to increase the maximum amount for which an offence may be compounded to \$5,000. The clause also requires all composition sums to be paid into the Consolidated Fund.

Clause 6 makes an amendment to section 50(4) that is consequential to the repeal of section 61.

Clause 7 amends section 56 (on compulsory acquisition) to introduce a new subsection (3A) on how the section is to operate when an owner of a flat, house or other living accommodation to be compulsorily acquired, or any person known or believed to be interested in claiming all or any part of the compensation to be paid, is deceased.

Clause 8 inserts new sections 56A and 56B, which are connected to the Board's powers under section 56 to compulsorily acquire any flat, house or other living accommodation sold subject to the provisions of Part IV.

The new section 56A confers on an authorised officer the power, under a search warrant, to enter and search any flat, house or other living accommodation or any other premises (whether or not sold, leased or rented out by the Board) that the owner or occupier of that flat, house or other living accommodation may be residing in. This section is adapted from relevant provisions (on search and seizure) in the Criminal Procedure Code.

The Magistrate may issue a search warrant under the new section 56A(1) on 2 grounds. The first ground is if the Magistrate has reason to believe that evidence of any ground under section 56(1) for acquiring that flat, house or other living accommodation can be found in that flat, house or other living accommodation or in those other premises that the owner or occupier may be residing in.

The second ground is if the owner or occupier fails to comply with a written notice issued under the new section 56B(1)(d) to produce or give access to any document or thing and the Magistrate has reason to believe that such document or

thing can be found in that flat, house or other living accommodation or in those other premises that the owner or occupier may be residing in.

The new section 56A also enables an authorised officer to take photographs and audio and video recordings of that flat, house or other living accommodation or those other premises that the owner or occupier may be residing in.

The new section 56B deals with an authorised officer's power to examine persons and summon persons to attend before the authorised officer for the purpose of investigations into any ground for compulsorily acquiring any flat, house or other living accommodation under section 56. An authorised officer is also empowered to require a person to produce documents and things relevant to such investigations. This section is adapted from relevant provisions (on receiving information) in the Criminal Procedure Code.

Clause 9 replaces subsection (2) in section 58 to expand the circumstances where the Board may apply to the Registrar of the Supreme Court for an order to deposit in court the compensation to be paid for any flat, house or other living accommodation compulsorily acquired under section 56. In addition to existing grounds, the Board may also make such an application where there is any dispute as to the entitlement to the compensation; where the Board is satisfied that any person entitled to the compensation is incapacitated by reason of mental illness and no donee of a lasting power of attorney or deputy has been appointed; and where the person entitled to the compensation is deceased and no legal personal representative has been appointed. The clause also makes consequential amendments.

Clause 10 introduces a new section 59A to give the Board powers to sell or dispose of any thing or movable property found in a flat, house or other living accommodation which the Board has taken possession of under section 59, if the owner of that flat, house or other living accommodation fails to take delivery of that thing or movable property.

The Board may use the sale proceeds received to meet any expenses incurred by the Board in storing or disposing of the thing or movable property and any outstanding debt owed to the Board by the owner, before paying the balance of the sale proceeds to the owner. If the owner cannot with due diligence be found or there is any dispute as to the entitlement to the proceeds, the Board may apply to the Registrar of the Supreme Court for an order to deposit the proceeds in court.

Clause 11 repeals section 61 (unauthorised subletting).

Clause 12 amends section 65(1) to allow the Minister to make rules empowering the Board to impose a financial penalty not exceeding \$50,000 on an owner or applicant of any flat, house or other living accommodation sold under Part IV who has breached any restriction, condition or requirement of section 47, instead of proceeding against that owner or applicant under section 47.

The Minister may also make rules empowering the Board to impose a financial penalty not exceeding \$50,000 on an owner of any flat, house or other building sold under Part IV who has breached any restriction, condition or requirement of section 55, instead of proceeding against that owner under section 55.

The amendment also allows the Minister to make rules empowering the Board to, instead of acquiring any flat, house or other living accommodation on any ground under section 56(1), impose a financial penalty not exceeding \$50,000 on the owner of that flat, house or other living accommodation for a breach of any restriction, condition or requirement of section 56.

The clause also makes consequential amendments.

Clause 13 amends section 79 to rename the section heading as “Obstruction” to better describe the purpose of the section.

Clause 14 repeals and re-enacts section 81. The re-enacted section 81 provides that all fines and financial penalties paid or recovered under the Act or any rules made under the Act are to be paid into the Consolidated Fund. The section also makes it clear that the Board’s officers are impressed with the same legal responsibilities as civil servants with regard to the collection of composition sums and financial penalties as these are public moneys.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
