



REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

BILLS SUPPLEMENT

Published by Authority

NO. 33]

MONDAY, OCTOBER 4

[2021

First published in the *Government Gazette*, Electronic Edition, on 4 October 2021 at 5 pm.

Notification No. B 33 — The Preservation of Monuments (Amendment) Bill is published for general information. It was introduced in Parliament on 4 October 2021.

Preservation of Monuments (Amendment) Bill

Bill No. 33/2021.

Read the first time on 4 October 2021.

A BILL

intituled

An Act to amend the Preservation of Monuments Act and to make a related amendment to the National Heritage Board Act.

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 Preservation of Monuments (Amendment) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Amendment of section 2**

2. Section 2 of the Preservation of Monuments Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “information notice”, the following definitions:

10 ““inland waters” means any river, stream, reservoir, lake or pond (whether natural or artificial) within the limits of the territorial waters of Singapore;

15 “land” includes any foreshore, site or underground space;”;

(b) by deleting the words “, or the remains of” in the definition of “monument”;

(c) by inserting, immediately after paragraph (a) of the definition of “monument”, the following paragraph:

20 “(aa) any site;”;

(d) by deleting the full-stop at the end of the definition of “preservation order” and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

25 ““proposed national monument” means a monument covered by a notice under section 11(7)(a) of the Minister’s intention to make a preservation order protecting the monument;

“site” means —

30 (a) any open space;

(b) any inland waters; or

(*c*) an area of land (including any building, structure, erection, statue, sculpture or other work, vegetation, inland waters or physiographical formation, or any combination thereof) containing anything that evidences human activity, present or past, 5

but excludes a site falling within paragraph (*b*) or (*c*) of the definition of “monument”; 10

“statutory authority” means a body established or constituted by or under a public Act to perform or discharge a public function, and includes a Town Council.”.

Amendment of section 4

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3. Section 4 of the principal Act is amended —

(*a*) by deleting the words “and preservation” in paragraph (*c*) and substituting the words “, preservation or maintenance”;

(*b*) by inserting, immediately after the words “the preservation” wherever they appear in paragraphs (*d*), (*f*) and (*h*), the words “or maintenance”; and 20

(*c*) by inserting, immediately after the words “national monuments” in paragraph (*e*), the words “and proposed national monuments”. 25

Amendment of section 5

4. Section 5 of the principal Act is amended —

(*a*) by deleting paragraph (*a*) and substituting the following paragraph:

“(a) advise on, supervise, control and require alterations, repairs, maintenance, renovations or construction of any kind to be made to any national monument or 30

proposed national monument for the purpose of ensuring the better preservation of the national monument or proposed national monument;”; and

- 5 (b) by inserting, immediately after the words “national monument” in paragraph (b), the words “or proposed national monument”.

Amendment of section 11

5. Section 11 of the principal Act is amended —

- 10 (a) by inserting, immediately after the words “a preservation order” in subsection (2), the words “and any land containing or adjacent to the monument that is specified in that preservation order”;

- 15 (b) by inserting, immediately after subsection (7), the following subsection:

“(7A) To avoid doubt, the Minister is not prevented from —

- (a) amending or revoking a preservation order relating to a national monument; or

- 20 (b) making a preservation order in relation to a proposed national monument,

if no objection is submitted to the Board under subsection (7)(b) in relation to that national monument or proposed national monument, as the case may be.”;

- 25 (c) by inserting, immediately after the words “deal with any” in subsection (10), the words “proposed national monument,”; and

- 30 (d) by inserting, immediately after the words “national monuments” in subsection (12), the words “and proposed national monuments”.

Amendment of section 15

6. Section 15 of the principal Act is amended —

(a) by inserting, immediately after the words “national monument” wherever they appear in subsection (1)(a) to (d), the words “or proposed national monument”;

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(b) by deleting the words “or flood the land” in subsection (1)(c) and substituting the words “or pollute or flood the land or site”;

(c) by inserting, immediately after subsection (1), the following subsection:

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“(1A) A person must not, without the prior written permission of the Board, and whether as principal or agent —

(a) clear, dig up, excavate or cultivate any plant or tree on or in a national monument or proposed national monument which is a site;

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(b) extract, mine, quarry or interfere with any earth, stone, clay, gravel, sand, shell, minerals, mineral oil, natural gas, or any thing or group of things that evidence human activity (present or past), found on, in or forming part of a national monument or proposed national monument which is a site;

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(c) destroy the relationship of a building and its environment that is incompatible with the character of the neighbourhood in a national monument or proposed national monument which is a site;

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(d) park or leave any vehicle or vessel on or in a national monument or proposed national monument which is a site; or

(e) damage or enclose a national monument or proposed national monument which is a site,

knowing or reckless as to whether it is a national monument or proposed national monument, as the case may be.”;

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(d) by inserting, immediately after the words “subsection (1)” in subsections (2) and (4)(a), the words “or (1A)”;

(e) by inserting, immediately after the words “national monument” wherever they appear in subsections (2), (5)(a) and (b) and (10), the words “or proposed national monument”; and

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(f) by deleting subsection (3) and substituting the following subsection:

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“(3) The Board may refuse to grant any permission as required under subsection (1) or (1A) if it is of the opinion that the works proposed to be done in relation —

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(a) to a national monument or any part of a national monument, or to the land or site on which the national monument is located, would affect the character or appearance of the national monument in a manner which is inappropriate or unbecoming a national monument; or

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(b) to a proposed national monument or any part of a proposed national monument, or to the land or site on which the proposed national monument is located, would irreparably alter the historic, cultural, traditional, archaeological, architectural, artistic or symbolic significance attached to it or any other condition of the proposed national monument before a decision whether or not the proposed national

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monument should be protected by a preservation order.”;

(g) by deleting subsection (8) and substituting the following subsection:

“(8) In any proceedings for an offence under subsection (4), it is a defence if the person proves, on a balance of probabilities, that the act done or omitted to be done in relation to a national monument or proposed national monument — 5

(a) was done or omitted — 10

(i) urgently or immediately for the safety of persons or property; and

(ii) with all reasonable care to ensure that the act or omission would have no more effect on the character or appearance of the national monument or proposed national monument (as the case may be) than was necessary in the circumstances; or 15 20

(b) was done or omitted —

(i) in good faith; and

(ii) for the purpose of complying with or giving effect to any order or requirement of the Government or a statutory authority (other than the Board) given in the performance of any function, the exercise of any power or the discharge of any duty of the Government or statutory authority (as the case may be) under any written law other than this Act.”. 25 30

Repeal and re-enactment of section 18

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

“Enforcement notice

5 **18.** If the Board is satisfied —

(a) that section 15(1) or (1A) has been or is being contravened in respect of a national monument or proposed national monument; or

10 (b) that a national monument or proposed national monument is, due to any operation or activity by any person, at risk of or is actually being destroyed, removed, damaged or altered,

the Board may, by notice in writing (called an enforcement notice), require —

15 (c) the owner or occupier of the national monument or proposed national monument;

(d) the person who committed or is committing the contravention; or

20 (e) the person who carried out or is carrying out the operation or activity,

to do all or any of the following within the time specified in the enforcement notice:

25 (f) to stop carrying out in relation to the national monument or proposed national monument any operation or activity that may be specified in the enforcement notice;

(g) to stop using the national monument or proposed national monument for any purpose that may be specified in the enforcement notice;

- (h) to take, at the own expense of the owner, occupier or person given the enforcement notice, any protective, remedial or other measures in relation to the national monument or proposed national monument that may be specified in the enforcement notice.”.

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New section 22A

8. Part IV of the principal Act is amended by inserting, immediately after section 22, the following section:

“Interface with other laws and statutory authorities

22A. Nothing in Part 4 applies to prevent or restrict or render unlawful the Government or a statutory authority (other than the Board) doing or omitting to do anything in the performance of any function, the exercise of any power or the discharge of any duty, of the Government or statutory authority, as the case may be —

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- (a) under any written law other than this Act; and
- (b) in relation to a national monument or proposed national monument that is, or is on or within —
- (i) any State land; or
- (ii) any other land or site vested in or under the care, control or management of the Government or that statutory authority.”.

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Amendment of section 27

9. Section 27 of the principal Act is amended —

- (a) by deleting the words “, enter upon any land” in subsection (1) and substituting the words “without warrant and without using force, enter upon any land or site”;

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(b) by inserting, immediately after the words “national monument” in subsection (1)(a), the words “or proposed national monument”;

5 (c) by inserting, immediately after subsection (1), the following subsections:

“(1A) The power conferred on the Director or a Monument Inspector under subsection (1)(a), (b) or (c) includes the following powers:

10 (a) to examine any thing or observe any activity conducted in or on the land or site in question without involving any search of any premises, thing or person, or any seizure of any thing, in or on that land or site;

15 (b) to make a sketch, photograph or still or moving image, or an audio or a video recording, of the land or site in question and any thing in or on that land or site;

20 (c) to make measurements of the land in question and any thing in or on that land;

(d) to take samples of water, soil, vegetation or other similar substances from the land or site in question and any thing in or on that land or site for the purposes of analysis.

25 (1B) The Director or a Monument Inspector entering any land or site for any purpose in subsection (1)(a), (b), (c) or (d) may be accompanied by a number of other persons reasonably necessary for that purpose.”; and

30 (d) by inserting, immediately after subsection (2), the following subsections:

“(2A) However, where the Director or a Monument Inspector —

(a) suspects on reasonable grounds that an offence under section 13(7), 15(4), 20(1)(a) or 22(1) has been or is being committed in relation to any land or site; and

(b) is unable to enter, or is refused entry to, the land or site under subsection (1),

the Director or Monument Inspector may forcibly enter the land or site without warrant for any purpose in subsection (1)(a), (b), (c) or (d), including by breaking open any outer or inner door or window leading to the land or site and removing by force any obstruction to the entry.

(2B) If the owner or occupier of the land or site is present when the Director or a Monument Inspector seeks to enter the land or site under subsection (1) or (2A), the Director or Monument Inspector (as the case may be) must, before entering —

(a) declare his or her office to the owner or occupier; and

(b) show to the owner or occupier the identification card that the chief executive officer of the Board directs to be carried by the Director or Monument Inspector as proof of identity.

(2C) If the owner or occupier of the land or site is not present when entry under subsection (1) or (2A) to the land or site is sought, but some other person who appears to be in charge of the land or site is present, then subsections (1) and (2A) respectively, apply to that other person as if he or she were the owner or occupier of the land or site.

(2D) However, subsections (2B) and (2C) do not apply if the land or site in question is unoccupied at the time of entry.”.

Amendment of section 31

5 **10.** Section 31 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

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

Miscellaneous amendments

10 **11.** The principal Act is amended —

(a) by inserting, immediately after the words “national monument” wherever they appear in the following provisions, the words “or proposed national monument”:

15 Section 16(1) and (2)(a), (c) and (e) (including the section heading)

Section 19(5)

Section 20(1)(b)

Section 22(1) and (2)(a) and (b)

Section 35(2)(a), (b), (c), (d) and (e);

20 (b) by inserting, immediately after the words “section 15(1)” in section 16(1), the words “or (1A)”; and

(c) by inserting, immediately after the words “national monuments” in the section heading of section 22, the words “or proposed national monuments”.

Amendment of National Heritage Board Act

12.—(1) Section 31(1) of the National Heritage Board Act is amended by deleting the word “including” in paragraph (f) and substituting the word “excluding”.

30 (2) Section 46(10) of the National Heritage Board Act is amended by deleting the definition of “monument” and substituting the following definition:

““monument” has the meaning given by section 2 of the Preservation of Monuments Act 2009.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Preservation of Monuments Act for the following key purposes:

- (a) to extend the scope of protection under the Act to any open space, inland waters, area of land or foreshore;
- (b) to provide immediate protection to monuments and sites in respect of which a notice of intention to make any of them a national monument is given (each called a proposed national monument);
- (c) to confer on the Director of National Monuments (called the Director) and any Monument Inspector powers of forced entry without warrant in certain circumstances.

The Bill also contains a related amendment to the National Heritage Board Act connected with archaeological investigation or examination of ancient monuments, and with moneys collected when compounding offences under that Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “monument” in section 2 and introduces new definitions of “inland waters”, “land”, “proposed national monument”, “site” and “statutory authority”.

The definition of “monument” today consists of sites comprising, or comprising the remains of, generally any immovable or movable structure. The definition of “monument” would not include any open space that does not comprise any structure or the remains of any structure, or water bodies or entire parcels of land or foreshore.

The definition of “monument” is now expanded so that the term includes a site. This amendment has the effect of making any reference in the Act to a monument to automatically include a reference to a site (whether or not it has a structure).

A “site” is defined to mean an open space, a body of inland waters, or an area of land or foreshore with any building, structure, erection, statue, sculpture or other work, vegetation, inland waters or physiographical formation (or any combination thereof) that contains anything that is evidence of human activity, present or past.

The new definition of “inland waters” covers any river, stream, reservoir, lake or pond (whether natural or artificial) within the limits of the territorial waters of Singapore.

Examples of sites include a cemetery or burial ground, gardens and parks, natural rock formations, a space or water body where archaeological artefacts are discovered and a whole parcel of land or neighbourhood.

A new definition of “proposed national monument” is introduced to support the amendments which confer immediate protection under the Act to monuments firmly identified as possible national monuments.

A monument becomes a proposed national monument once the National Heritage Board (called the Board) gives a notice of the Minister’s intention to make the monument a national monument under section 11(7)(a) covering that monument.

Clause 3 makes an amendment to section 4 relating to the functions of the Board to extend it to cover proposed national monuments and the maintenance of monuments and sites.

Clause 4 amends section 5 relating to the powers of the Board, similarly extending them to cover proposed national monuments and the maintenance of monuments and sites.

Clause 5 makes amendments to section 11 to empower the making of a preservation order with a site as a target of protection. Such a site and any adjacent lands specified in a preservation order becomes a national monument.

An editorial change is made to section 11(2) to ensure consistency between the provision and the definition of “national monument” in section 2.

Clause 5 also makes it clear that the absence of objections within the time delimited for making objections does not prevent the Minister making, amending or revoking a preservation order.

To prevent a situation where a monument is not protected against demolition, alterations or other damage before a preservation order is made in respect of it, clause 6 amends section 15 so as to accelerate the protection thereunder to proposed national monuments. The protection is automatic, binds everyone the moment notice is given by the Board of the Minister’s intention to make a preservation order covering the monument in question.

Clause 6 also makes an amendment to section 15 to deal specially with activities that can adversely affect a site. The activities that need controlling are more than that presently prescribed to protect a monument, which is a structure.

The offences in section 15 are extended to cover carrying on of activities without the prior permission of the Board in relation to a national monument or proposed national monument which is a site, and the person carrying on knows or

is reckless as to whether the site is a national monument or proposed national monument. The activities are as follows:

- (a) clear, dig up, excavate or cultivate any plant or tree on or in a national monument or proposed national monument which is a site;
- (b) extract, mine, quarry or interfere with any earth, stone, clay, gravel, sand, shell, minerals, mineral oil, natural gas, or any thing or group of things that evidence human activity (past or present), found on, in or forming part of a national monument or proposed national monument which is a site;
- (c) destroy the relationship of a building and its environment that is incompatible with the character of the neighbourhood in a national monument or proposed national monument which is a site;
- (d) park or leave any vehicle or vessel on or in a national monument or proposed national monument which is a site;
- (e) damage or enclose a national monument or proposed national monument which is a site.

Finally, with the extension of the Act to also cover sites (such as open space and inland waters) and not just structures, the overlap in responsibilities and enforcement jurisdictions between public sector agencies is enlarged.

For example, a railway bridge or a building which is subject to regular retrofitting requirements for building safety or maintenance reasons may itself be or contain a national monument or proposed national monument. The owner of a site which is a national monument may be required by a statutory authority other than the Board to cut down a tree because that tree is unsafe or is hampering the visibility needed for public transport operations. The owner of such a bridge, building or site may be directed or required by another statutory authority to carry out work affecting the national monument or proposed national monument, as the case may be.

Clause 6 therefore amends section 15 to provide a defence to the person against conviction of an offence under section 15(4) if the person did the act or omitted to do anything in relation to any national monument or proposed national monument in good faith and for the purpose of complying with or giving effect to any order or requirement of the Government or a statutory authority (other than the Board) given under any written law other than the Act.

The existing defence in section 15(8) for an accused person is retained *viz.* doing an act or omission urgently or immediately needed for the safety of persons or property, and the accused person had exercised all reasonable care to ensure that the act or omission would have no more effect on the character or appearance of the national monument or proposed national monument (as the case may be) than was necessary in the circumstances.

Clause 7 repeals and re-enacts section 18 which empowers the Board to issue an enforcement notice requiring the owner or occupier of a national monument or proposed national monument, or the person who committed or is committing the contravention of the Act from doing or refraining from doing an operation or activity.

The new section 18 contains different preconditions for the Board to issue an enforcement notice. As amended, an enforcement notice may be given if the Board is satisfied that section 15(1) or (1A) has been or is being contravened in respect of a national monument or proposed national monument. Alternatively, the Board may issue an enforcement notice if it is satisfied that a national monument or proposed national monument is, due to any operation or activity by any person, at risk of or is actually being destroyed, removed, damaged or altered.

Clause 8 inserts a new section 22A to make clear the relationship between the Act and the other laws where these affect a national monument or proposed national monument which is, or is on or within, any State land or any other land or site that is vested in or under the care, control or management of the Government or a statutory authority (other than the Board) by the operation of written law.

The Government or other statutory authority will have been vested or conferred certain powers and duties under another Act vis-à-vis lands or sites under its care, control and management. For example, a public park or a reservoir may be or contain a national monument or proposed national monument. The new section 22A makes it clear that those powers and duties of the Government or other statutory authority will not be constrained by this Act.

Clause 9 amends section 27 firstly, to provide express authorisation to the Director or a Monument Inspector when exercising the power of entry (which must be at a reasonable time and may be without warrant) to examine any thing or observe any activity conducted in or on the land or site in question, to make a sketch, photograph or an audio or a video recording of the land or site and any thing in or on that land or site, and be accompanied by a number of other persons reasonably necessary for that purpose.

After entering, the Director or a Monument Inspector may also make measurements of the land in question and any thing in or on the land, and take samples of water, soil, vegetation or other similar substances from the land or site in question and any thing in or on that land or site for the purposes of analysis.

Section 27 is also amended to confer on the Director or a Monument Inspector the power to forcibly enter any land or site without warrant. The Director or Monument Inspector may forcibly enter the land or site without warrant, including by breaking open any outer or inner door or window leading to the land or site and removing by force any obstruction to the entry.

This power of forced entry is, however, confined for use only for a purpose in section 27(1) (such as, for the purposes of investigating into any contravention or

suspected contravention of the Act or inspecting any national monument or proposed national monument) and where the Director or a Monument Inspector is satisfied certain conditions are met.

The conditions are first, the Director or a Monument Inspector is unable to enter or is refused entry to the land or site. The second condition is that the Director or a Monument Inspector suspects on reasonable grounds that an offence under section 13(7), 15(4), 20(1)(a) or 22(1) has been or is being committed in relation to the land or site.

Any entry or forced entry under section 27 by the Director or a Monument Inspector has to be accompanied by the Director or Monument Inspector declaring his or her office, and producing his or her identification card where a demand is made for the Director or Monument Inspector to do so.

The Director is an officer of the Board. A Monument Inspector may be an officer or employee of the Board, any civil servant or an officer or employee of other statutory authority appointed by the Director.

Clause 10 amends section 31 to provide for the payment of composition sums collected into the Consolidated Fund instead of to the Board. This is to give effect to a recent policy introduced by the Treasury.

Clause 11 contains a list of amendments to several provisions in the Act to deal with the extension of the Act to protect proposed national monuments.

Clause 12 amends the National Heritage Board Act.

The first amendment is a change to section 31(1)(f) of the National Heritage Board Act consequential upon the amendment in clause 10.

The second is to section 46(10) of the National Heritage Board Act, which concerns archaeological investigation or examination of ancient monuments. The definition of “monument” is replaced with a cross reference to the Act so that the word “monument” in section 46 of the National Heritage Board Act has the same meaning as that in the Preservation of Monuments Act, as amended by clause 2.

EXPENDITURE OF PUBLIC MONEY

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