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Customs (Amendment) Bill

Bill No. 48/2024.

Read the first time on 11 November 2024.

A BILL

intituled

An Act to amend the Customs Act 1960.

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 Customs (Amendment) Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 3

2. In the Customs Act 1960 (called in this Act the Customs Act), in section 3(1) —

(a) delete “, unless the context otherwise requires”;

(b) after the definition of “authentication code”, insert —

10 ““auxiliary police officer” means an auxiliary police officer appointed under the Police Force Act 2004;”; and

(c) after the definition of “master”, insert —

““mobile communication device” means —

15 (a) a mobile phone; or

(b) any wireless handheld device (such as a tablet computer) or wearable device (such as a smart watch) designed or capable of being used for a communication function;”.

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Amendment of section 51

3. In the Customs Act, in section 51, after subsection (5), insert —

“(6) The licensee of a licensed warehouse must remove all dutiable goods from the warehouse before —

25 (a) the expiry of the period of the licence; or

(b) if the Director-General serves on the licensee a notice of withdrawal of the licence, the date of withdrawal specified in the notice.

(7) A licensee who, without reasonable excuse, fails to comply with subsection (6) shall be guilty of an offence.

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(8) If a licensee fails to comply with subsection (6), the Director-General may do all or any of the following:

- (a) remove all dutiable goods from the warehouse;
- (b) store the dutiable goods in a Government warehouse or licensed warehouse; 5
- (c) forfeit the dutiable goods after one month from the date of the expiry or withdrawal (as the case may be) of the licence;
- (d) dispose of all dutiable goods forfeited under paragraph (c) in accordance with this Act. 10

(9) Any costs incurred by the Director-General pursuant to subsection (8) are recoverable by the Director-General from the licensee as a debt due to the Government.

(10) To avoid doubt, subsection (6) does not affect the operation of sections 27 and 59.”. 15

Amendment of section 91

4. In the Customs Act, in section 91, after subsection (2), insert —

“(2A) The Director-General may authorise in writing an auxiliary police officer who is employed on any duty or service relating to customs to exercise any power under this section with respect to such duty or service. 20

(2B) An auxiliary police officer authorised under subsection (2A) is deemed to be a proper officer of customs for the purposes of this section.”.

Amendment of section 101

5. In the Customs Act, in section 101 —

(a) replace subsection (1) with —

“(1) This section applies if it appears to any Magistrate, or any senior officer of customs not below the rank of Assistant Director-General of Customs, upon information and after any inquiry which he or she thinks necessary, that there is 30

reasonable cause to believe that in any dwelling house, shop or other building or place, there are concealed or deposited —

- (a) any dutiable or uncustomed goods;
- 5 (b) any goods liable to forfeiture under this Act;
- (c) any goods as to which any offence under this Act has been committed;
- 10 (d) any books, records, documents or other articles, directly or indirectly relating to any transaction or dealing in any of the goods mentioned in this subsection;
- (e) any computers or associated devices, or mobile communication devices, containing or to which is available any data relating to any transaction or dealing in any of the goods mentioned in this subsection; or
- 15 (f) any cash that may afford evidence as to the commission of an offence under this Act.

20 (1A) The Magistrate or senior officer of customs may issue a warrant authorising any officer of customs named in the warrant, by day or by night and with or without any assistance —

- 25 (a) to enter the dwelling house, shop or other building or place and there to search for and seize —
 - 30 (i) any goods reasonably suspected of being dutiable or uncustomed goods, or goods liable to forfeiture under this Act, or goods as to which any offence under this Act is suspected to have been committed;
 - (ii) any books, records, documents or other articles that are reasonably

believed to directly or indirectly relate to any transaction or dealing in any of the goods mentioned in this subsection;

- (iii) any computers or associated devices, or mobile communication devices, which are reasonably believed to contain any data relating to any transaction or dealing in any of the goods mentioned in this subsection or to which such data is reasonably believed to be available; and 5
- (iv) any cash reasonably believed to afford evidence as to the commission of an offence under this Act; 10 15
- (b) to arrest any person being in the dwelling house, shop, building or place, in whose possession anything mentioned in paragraph (a) may be found, or whom the officer of customs may reasonably suspect to have concealed or deposited anything mentioned in that paragraph; 20
- (c) to inspect the operation of, and any data contained in or available to, anything mentioned in paragraph (a)(iii); 25
- (d) to, without payment, make copies of, or take extracts from —
 - (i) anything mentioned in paragraph (a)(ii); or 30
 - (ii) any data contained in or available to anything mentioned in paragraph (a)(iii); and

(e) to take any reasonable steps to preserve anything mentioned in paragraph (a)(ii), (iii) or (iv).”; and

(b) after subsection (2), insert —

5 “(3) In this section and section 103, “data” includes any computer program or computer software installed in a computer and any computer output (within the meaning given by section 2(1) of the Computer Misuse Act 1993).”.

10 **Replacement of section 103**

6. In the Customs Act, replace section 103 with —

“When search may be made without warrant

103.—(1) This section applies if —

15 (a) it appears to any senior officer of customs that there is reasonable cause to believe that in any dwelling house, shop or other building or place there are concealed or deposited —

(i) any dutiable or uncustomed goods;

(ii) any goods liable to forfeiture under this Act;

20 (iii) any goods as to which any offence under this Act has been committed;

(iv) any books, records, documents or other articles, directly or indirectly relating to any transaction or dealing in any of the goods mentioned in this subsection;

25 (v) any computers or associated devices, or mobile communication devices, containing or to which is available any data relating to any transaction or dealing in any of the goods mentioned in this subsection; or

30 (vi) any cash that may afford evidence as to the commission of an offence under this Act; and

(b) the senior officer of customs has reasonable grounds to believe that, by reason of any delay in obtaining a search warrant, anything mentioned in paragraph (a) is likely to be removed.

(2) The senior officer of customs may exercise in, upon and in respect of that dwelling house, shop or other building or place — 5

(a) all the powers mentioned in section 101 as if the officer were authorised to do so by a warrant issued under that section, except in relation to any computer or associated device; and 10

(b) all the powers mentioned in section 110A with respect to any computer or associated device.”.

Deletion of section 103A

7. In the Customs Act, delete section 103A.

Amendment of section 106

8. In the Customs Act, in section 106, after subsection (1), insert — 15

“(1A) The Director-General may authorise in writing an auxiliary police officer who is employed on any duty or service relating to customs to exercise the power under subsection (1). 20

(1B) An auxiliary police officer authorised under subsection (1A) is deemed to be an officer of customs for the purposes of this section.”.

New section 109A

9. In the Customs Act, after section 109, insert — 25

“General power to search person

109A.—(1) If a proper officer of customs reasonably suspects that a person has committed or is committing an offence under this Act, the officer may stop that person and do either or both of the following: 30

(a) search any bag or thing belonging to or in the possession of that person;

(b) require that person to reveal the contents of that person's pockets, if any.

5 (2) The Director-General may authorise in writing an auxiliary police officer who is employed on any duty or service relating to customs to exercise any power under subsection (1).

(3) An auxiliary police officer authorised under subsection (2) is deemed to be a proper officer of customs for the purposes of this section.”.

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Amendment of section 110

10. In the Customs Act, in section 110 —

(a) in the section heading, after “**offence**”, insert “**and cash**”;

(b) in subsection (1), replace “or documents” with
15 “, documents or mobile communication devices”;

(c) after subsection (1), insert —

“**(1A)** The Director-General may authorise in writing an auxiliary police officer employed on any duty or service relating to customs, to seize any goods under subsection (1) as follows:

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(a) for any goods reasonably suspected to be 400 sticks or less of dutiable or uncustomed cigarettes — on his or her own accord;

(b) for any goods reasonably suspected to be more than 400 sticks of dutiable or uncustomed cigarettes, or other types of dutiable or uncustomed goods — at the direction of a senior officer of customs.”;

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(d) in subsection (2), replace “or aircraft” with “, aircraft, books, documents or mobile communication devices”;

30

(e) after subsection (2), insert —

“(2A) In addition, if an officer of customs has reasonable cause to suspect that any cash found in any place either on land or in the territorial waters of Singapore or on any person may afford evidence as to the commission of any offence under this Act or breach of a provision of this Act, the officer of customs — 5

(a) may seize the cash; and

(b) must deliver the seized cash, as soon as practicable, into the care of a proper officer of customs whose duty it is to receive the same. 10

(2B) The Director-General may authorise in writing an auxiliary police officer employed on any duty or service relating to customs to exercise any power under subsection (2A) at the direction of a senior officer of customs. 15

(2C) An auxiliary police officer authorised under subsection (1A) or (2B) is deemed to be an officer of customs for the purposes of this section.”; 20

(f) in subsection (3), replace “any goods, vehicles, vessels or aircraft are seized” with “any goods, vehicle, vessel, aircraft, book, document, mobile communication device or cash is seized”; and

(g) in subsection (3), replace “the goods, vehicles, vessels or aircraft” with “the goods, vehicle, vessel, aircraft, book, document, mobile communication device or cash”. 25

New section 110A

11. In the Customs Act, after section 110, insert —

“Inspection of computers, etc.

110A.—(1) This section applies where —

- (a) a Magistrate or senior officer of customs not below the rank of Assistant Director-General of Customs personally exercises any power under section 102;
- (b) a senior officer of customs exercises any power under section 103;
- (c) an officer of customs exercises any power under a warrant under section 101 or any power under section 110; or
- (d) an auxiliary police officer exercises any power under an authorisation under section 110.

(2) Without affecting any powers under section 101 or 110, the Magistrate, senior officer of customs, officer of customs or auxiliary police officer (as the case may be) (each called *X*) may, in connection with the exercise of any power mentioned in subsection (1), do all or any of the following in respect of any computer or associated device found in or at the dwelling house, shop or other building or place concerned, as the case may be:

- (a) inspect the operation of the computer or associated device, and any data contained in or available to it, if *X* reasonably believes that the computer or associated device contains data, or data is available to it, that —
 - (i) relates to any transaction or dealing in any of the goods mentioned in section 101, 103 or 110, as the case may be; or
 - (ii) is evidential material that is relevant to an offence under this Act, any breach of the provisions of this Act or of any restriction or condition subject to or upon which any licence or permit has been granted;

- (b) require —
- (i) the person by whom or on whose behalf the computer or associated device is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer or associated device,
- to provide *X* with any reasonable assistance that he or she may require for the purpose of paragraph (a);
- (c) without payment, make copies of, or take extracts from, any data contained in or available to the computer or associated device;
- (d) without payment, take possession of the computer or associated device where, in *X*'s opinion —
- (i) the inspection of the computer or associated device, or the inspection or copying of or the taking of any extract from, any data contained in or available to the computer or associated device, cannot reasonably be performed without taking possession;
 - (ii) the computer or associated device may be interfered with or destroyed unless possession is taken; or
 - (iii) the computer or associated device may be required as evidence in proceedings instituted or commenced for any purpose of, or in connection with, this Act;
- (e) take onto the premises any equipment and material that *X* requires for the purpose of exercising any power under this section;
- (f) operate any electronic equipment on the premises for the purpose of exercising any power under this section.

(3) In this section, “data” includes any computer program or computer software installed in a computer and any computer output (within the meaning given by section 2(1) of the Computer Misuse Act 1993).”.

5 **Amendment of section 112**

12. In the Customs Act, in section 112, after subsection (7), insert —

10 “(8) Subject to subsection (9), the Director-General may authorise in writing an auxiliary police officer employed on any duty or service relating to customs, to arrest without warrant —

15 (a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence under this Act;

(b) any person whom that officer reasonably suspects to have in the person’s possession any dutiable or uncustomed goods or any goods liable to seizure under this Act; or

20 (c) any person whom that officer reasonably suspects has been guilty of an offence under this Act,

and may search, or cause to be searched, any person so arrested.

25 (9) An auxiliary police officer may exercise any power under subsection (8) only at the direction of a senior officer of customs.

(10) Subsections (2) to (7) apply to an arrest and a search of an arrested person made by an auxiliary police officer under subsection (8), and any reference in those provisions to an officer of customs is a reference to the auxiliary police officer.”.

30 **New section 127A**

13. In the Customs Act, after section 127, insert —

“Procedure governing seizure of computer, etc., other than certain goods

127A.—(1) Subject to subsection (2), sections 370, 371 and 372 of the Criminal Procedure Code 2010 apply, with the necessary modifications, when any officer of customs or auxiliary police officer seizes any computer or associated device, mobile communication device or cash under any provision of this Act. 5

(2) Subsection (1) does not apply to computers or associated devices, or mobile communication devices, that are goods — 10

(a) in respect of which there has been committed, or there is reasonable cause to suspect that there has been committed, any offence under this Act or any breach of the provisions of this Act or of any restriction or condition subject to or upon which any licence or permit has been granted; and 15

(b) that are seized under any provision of this Act.”.

New section 128KA

14. In the Customs Act, after section 128K, insert —

“Additional offences relating to goods in respect of which offence under section 128D, 128F, 128G, 128H, 128I or 128K is committed 20

128KA.—(1) An owner or occupier of any land or premises who —

(a) stores or keeps any goods; or 25

(b) permits or allows any other person to store or keep any goods,

on the land or premises shall be guilty of an offence if the goods are specified goods, unless the owner or occupier has exercised due care to ascertain that the goods are not specified goods. 30

(2) The owner of a vehicle or, if the vehicle is hired out by the owner to another person (called the hirer), the hirer who —

(a) uses the vehicle to store or keep, or convey, any goods; or

(b) permits or allows any other person to use the vehicle to store or keep, or convey, any goods,

5 shall be guilty of an offence if the goods are specified goods, unless the owner or hirer has exercised due care to ascertain that the goods are not specified goods.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding \$10,000.

(4) In this section, “specified goods” means —

(a) any goods in respect of which an offence under section 128D, 128F, 128G, 128H or 128I is committed; or

15 (b) any goods or intoxicating liquor in respect of which an offence under section 128K is committed.”.

Amendment of section 128L

15. In the Customs Act, in section 128L —

(a) in subsection (2), replace “not exceeding \$5,000” with “not exceeding \$10,000”;

(b) after subsection (2), insert —

25 “(2A) Any person mentioned in subsection (2) shall be liable to imprisonment for a term not exceeding 12 months in addition to the punishment prescribed under that subsection.”;

(c) in subsection (3), delete “, or to imprisonment for a term not exceeding 2 years, or to both”; and

(d) after subsection (3), insert —

30 “(3A) Any person mentioned in subsection (3) shall be liable to imprisonment for a term not exceeding 2 years in addition to the punishment prescribed under that subsection.”.

Amendment of section 137

16. In the Customs Act, in section 137 —

- (a) renumber the section as subsection (1) of that section;
- (b) in subsection (1), replace “and shall be liable —” with a full-stop; 5
- (c) in subsection (1), delete paragraphs (e) and (f); and
- (d) after subsection (1), insert —

“(2) Any person who, with intent to delay or obstruct the carrying out of an investigation under this Act, alters, suppresses, conceals or destroys any book, document or other record which — 10

- (a) the Director-General or any proper officer of customs may inspect, copy, make extracts of or take possession of under this Act; or 15

- (b) the person is or is liable to be required to give or produce to a proper officer of customs under this Act,

shall be guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable — 20

- (a) on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 18 months or to both; and

- (b) in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 and to imprisonment for a term not exceeding 3 years.”. 25

EXPLANATORY STATEMENT

This Bill seeks to amend the Customs Act 1960 (the Act) for the following main purposes:

- (a) to require a licensee of a licensed warehouse to remove all dutiable goods from that warehouse before the date of expiry or withdrawal of the licence in respect of the warehouse;
- (b) to allow officers of customs, in specified circumstances, to seize computers or associated devices, and mobile communication devices, that may contain information relating to any transaction or dealing in dutiable or uncustomed goods, goods liable to forfeiture under the Act or goods as to which any offence under the Act may have been committed;
- (c) to allow officers of customs, in specified circumstances, to seize cash that may afford evidence as to the commission of any offence under the Act;
- (d) to allow officers of customs to stop a person and search any bag or thing belonging to or in the possession of that person, or require that person to reveal the contents of that person's pockets, if the officers of customs reasonably suspect that that person has committed or is committing an offence under the Act;
- (e) to empower the Director-General of Customs (the Director-General) to authorise auxiliary police officers to exercise certain powers under the Act;
- (f) to create new offences under the Act and to enhance the penalty for offences under section 128L.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 3(1) to —

- (a) delete the words “, unless the context otherwise requires” which are redundant by virtue of section 2(2A) of the Interpretation Act 1965; and
- (b) insert new definitions for the terms “auxiliary police officer” and “mobile communication device”.

Clause 3 amends section 51 by inserting new subsections (6) to (10). The new subsection (6) provides that a licensee of a licensed warehouse must remove all dutiable goods from the warehouse before the expiry of the period of a licence granted in respect of the warehouse or, if the licence is withdrawn by the Director-General, before the date of withdrawal specified by the Director-General in the notice of withdrawal.

The new subsections (7) to (9) provide that any failure by the licensee to comply with the new subsection (6) is an offence and that the Director-General may remove, store or forfeit the dutiable goods, dispose of the dutiable goods, and recover the cost of doing so from the licensee. Finally, the new subsection (10) makes clear that the obligations imposed under the new subsection (6) does not affect the operation of sections 27 and 59.

Clause 4 amends section 91 to empower the Director-General to authorise in writing an auxiliary police officer to require any person to give information or to produce certain documents. An auxiliary police officer so authorised is deemed to be a proper officer of customs for the purposes of that section.

Clause 5 amends section 101 to allow a Magistrate or a senior officer of customs not below the rank of Assistant Director-General of Customs to issue a warrant authorising an officer of customs to enter and search premises in certain additional circumstances, namely when the Magistrate or senior officer of customs has reasonable cause to believe that any computer or associated device, or mobile communication device, containing or to which is available any data relating to any transaction or dealing in any goods mentioned in subsection (1), or any cash that may afford evidence as to the commission of any offence under the Act, may be found in those premises. The acts that may be performed by the officer of customs, which are currently provided under subsection (1)(e), (f) and (g), are reproduced with modifications under a new subsection (1A).

Clause 6 replaces section 103 to allow a senior officer of customs to enter and search premises and exercise the powers specified in section 101 or the new section 110A (as inserted by clause 11) without obtaining a search warrant under section 101 in 2 additional circumstances. These circumstances are when the senior officer of customs has reasonable cause to believe that any computer or associated device, or mobile communication device, containing or to which is available any data relating to any transaction or dealing in any goods mentioned in section 103, or any cash that may afford evidence as to the commission of any offence under the Act, may be found in those premises, and he or she has reasonable grounds for believing that the computer or associated device, mobile communication device or cash is likely to be removed because of a delay in obtaining a search warrant under section 101.

Clause 7 deletes section 103A as a consequential amendment to the enactment of the new section 110A.

Clause 8 amends section 106 to empower the Director-General to authorise in writing an auxiliary police officer to stop and examine any vehicle to ascertain whether any dutiable or uncustomed goods are contained in the vehicle. The authorised auxiliary police officer is deemed to be an officer of customs for the purposes of that section.

Clause 9 inserts a new section 109A to provide that if a proper officer of customs reasonably suspects that a person has committed or is committing an offence under the Act, he or she may stop the person and —

- (a) search any bag or thing that belongs to the person or is in the person's possession; or
- (b) require the person to reveal the contents of that person's pockets.

Clause 9 also empowers the Director-General to authorise in writing an auxiliary police officer to exercise any power under the new section 109A. The authorised auxiliary police officer is deemed to be a proper officer of customs for the purposes of that section.

Clause 10 amends section 110(1) to allow any officer of customs to seize any mobile communication device which may have a bearing on a case concerning any offence under the Act or a breach of the provisions of the Act or of any restriction or condition subject to or upon which any licence or permit has been granted.

Clause 10 also inserts a new subsection (1A) to empower the Director-General to authorise an auxiliary police officer to exercise the power under subsection (1) on his or her own accord where the goods concerned are reasonably suspected to be no more than 400 sticks of dutiable or uncustomed cigarettes. In any other case, they may be seized by an auxiliary police officer only at the direction of a senior officer of customs.

In addition, clause 10 inserts a new subsection (2A) to allow an officer of customs to seize any cash that affords any evidence of the commission of any offence under the Act or a breach of the provisions of the Act if he or she has reasonable cause to suspect that this is the case. The new subsection (2B) empowers the Director-General to authorise an auxiliary police officer to exercise the same power at the direction of a senior officer of customs.

Clause 11 inserts a new section 110A to allow a Magistrate or a senior officer of customs not below the rank of Assistant Director-General of Customs (exercising a power under section 102), a senior officer of customs (exercising a power under section 103), an officer of customs (exercising a power under a warrant under section 101 or a power under section 110) or an auxiliary police officer (exercising a power authorised under section 110) to inspect a computer or associated device found in a dwelling house, shop or other building or place. The Magistrate, senior officer of customs, officer of customs or auxiliary police officer (as the case may be) may require reasonable assistance from the person by whom or on whose behalf the computer or associated device is used or has been used, or from any person in charge of or who operates the computer or associated device.

In addition, the Magistrate, senior officer of customs, officer of customs or auxiliary police officer (as the case may be) may, without payment, make copies of or take extracts from any data contained in or available to the computer or

associated device, and may take possession of the computer or associated device in specified circumstances. The Magistrate, senior officer of customs, officer of customs or auxiliary police officer (as the case may be) may also take onto the premises any equipment and material, and operate any electronic equipment on the premises, for the purpose of exercising any power under the new section 110A.

Clause 12 amends section 112 to empower the Director-General to authorise in writing an auxiliary police officer employed on any duty or service relating to customs, to arrest without warrant a person in the specified circumstances at the direction of a senior officer of customs.

Clause 13 inserts a new section 127A to provide that sections 370, 371 and 372 of the Criminal Procedure Code 2010 (relating to the procedure governing the seizure of property by a law enforcement officer) apply to the seizure of computers or associated devices, mobile communication devices or cash under the Act. The new section 127A does not apply to certain computers or associated devices, or mobile communication devices, which are goods seized under the Act and subject to the forfeiture and disposal provisions in sections 122, 123 and 124.

Clause 14 inserts a new section 128KA, which introduces an offence for an owner or occupier of land or premises, or an owner or hirer of a vehicle, to use or to permit another person to use the land, premises or vehicle to store or keep, or (in the case of a vehicle) convey, specified goods (defined in the new subsection (4)), unless the owner, occupier or hirer (as the case may be) has exercised due care to ascertain that the goods are not specified goods. The offence is punishable with a fine not exceeding \$10,000.

Clause 15 amends section 128L to increase the maximum penalty from \$5,000 to \$10,000 for conviction of a specified offence (defined in subsection (7)) where the amount of customs duty or excise duty cannot be ascertained. Clause 15 also amends section 128L to provide that in addition to the punishment prescribed under subsection (2) or (3), a person mentioned in that subsection is liable to imprisonment for a term prescribed in the new subsection (2A) or (3A), whichever is applicable.

Clause 16 renumbers section 137 as subsection (1) of that section with some textual modifications, and inserts new subsections (2) and (3). The new subsection (2) provides that the alteration, suppression, concealment or destruction of any book, document or other record which the Director-General or a proper officer of customs may inspect, copy, make extracts of or take possession of under the Act, or which may be required to be given or produced to a proper officer of customs, is an offence. The new subsection (3) provides for the existing punishment for an offence under the renumbered subsection (1) to apply for an offence under the new subsection (2).

EXPENDITURE OF PUBLIC MONEY

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