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Criminal Procedure Code (Amendment) Bill

Bill No. 7/2019.

Read the first time on 11 February 2019.

A BILL

i n t i t u l e d

An Act to amend the Criminal Procedure Code (Chapter 68 of the 2012 Revised Edition).

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

Short title and commencement

1. This Act is the Criminal Procedure Code (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 20

2. Section 20 of the Criminal Procedure Code (called in this Act the principal Act) is amended by inserting, immediately after the words “in respect of” in subsections (6) and (8), the word “any”.

New Division 3 of Part IV

10 3. The principal Act is amended by inserting, immediately after section 40, the following Division:

*“Division 3 — Powers of investigation for
offences related to statement recording*

15 Powers of investigation of certain law enforcement officers when recording statements

40A.—(1) An officer of a prescribed law enforcement agency (other than the Singapore Police Force) who —

(a) is authorised by any written law other than this section to exercise the powers of a police officer under this Code in relation to an investigation into an arrestable offence when investigating an offence under that written law; and

(b) records a statement during such an investigation by making an audiovisual recording,

25 may investigate any offence under regulations made under section 428(2)(b) committed in relation to that audiovisual recording, and is, by virtue of this section, taken to have the same powers mentioned in paragraph (a), despite anything to the contrary in that other written law.

30 (2) For the purposes of this section and section 40B, the Minister charged with the responsibility for any law enforcement agency may, by order in the *Gazette*, prescribe

the law enforcement agency as a prescribed law enforcement agency.

Officer deemed to be of certain rank

40B. For the purpose of section 40A, when an officer of a prescribed law enforcement agency is exercising the powers pursuant to that section when investigating an offence in relation to an audiovisual recording, the officer is deemed to be a police officer not below the rank of inspector of police.”.

Repeal and re-enactment of sections 107 and 107A

4. Sections 107 and 107A of the principal Act are repealed and the following sections substituted therefor:

“Procedure for forfeiture of bond without sureties

107.—(1) This section provides for the forfeiture of the following bonds:

- (a) a personal bond without sureties;
- (b) a bond without sureties to keep the peace;
- (c) a bond without sureties for good behaviour.

(2) If it is proved to a court’s satisfaction that —

- (a) the released person bound by a bond mentioned in subsection (1)(a) has, without reasonable excuse, failed to comply with any duty imposed on the released person to surrender to custody, to be available for investigations, or to attend court on the day and at the time and place appointed for the released person to do so;
- (b) the person bound by a bond mentioned in subsection (1)(b) has, without reasonable excuse, failed to keep the peace; or

(c) the person bound by a bond mentioned in subsection (1)(c) has failed to be of good behaviour, the court —

(d) must record the basis of such proof;

5 (e) must forfeit the bond;

(f) may summon before the court that relevant person;

(g) may call upon that relevant person to pay a sum, being the whole or any part of the amount of the bond, or to explain why that sum should not be paid; and

10 (h) may order that the sum mentioned in paragraph (g) be paid by instalments.

(3) If the explanation mentioned in subsection (2)(g) is inadequate, and the sum mentioned in subsection (2)(g) is not paid in full, the court may recover the amount unpaid by issuing an order for the attachment of any property, movable or immovable, belonging to the relevant person.

(4) The attachment of any property under subsection (3) may be carried out —

20 (a) by seizure of such property, which may be sold and the proceeds applied towards the payment of the amount; or

(b) by appointing a receiver, who may take possession of and sell such property, and apply the proceeds towards the payment of the amount.

25 (5) If immovable property attached under subsection (3) is sold, the officer under whose direction the attachment and sale was carried out may do any thing or act to transfer the title to the purchaser.

30 (6) If the sum mentioned in subsection (2)(g) is not paid in full or cannot be fully recovered by such attachment and sale, the court may commit to prison the relevant person for a term not exceeding 12 months.

(7) Any person may, not later than 7 days after the date any property is seized under subsection (4)(a) or taken possession of by the receiver under subsection (4)(b), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (3), and the court may make such order as it sees fit. 5

(8) Any unsatisfied part of the sum mentioned in subsection (2)(g) constitutes a judgment debt in favour of the Government, and nothing in this section prevents the Government from recovering it as such. 10

(9) The court may, on the application of a relevant person at any time after the relevant person is called upon to pay the sum mentioned in subsection (2)(g), reduce that sum and enforce part-payment only. 15

(10) In this section, “relevant person” means —

- (a) the released person bound by a bond mentioned in subsection (1)(a);
- (b) the person bound by a bond mentioned in subsection (1)(b); or 20
- (c) the person bound by a bond mentioned in subsection (1)(c).

Procedure for forfeiture of bond with sureties

107A.—(1) This section provides for the forfeiture of the following bonds: 25

- (a) a bond with one or more sureties;
- (b) a bond with sureties to keep the peace;
- (c) a bond with sureties for good behaviour.

(2) If it is proved to a court’s satisfaction that —

- (a) the released person for whose appearance a bond mentioned in subsection (1)(a) was executed has, without reasonable excuse, failed to comply with any 30

duty imposed on the released person to surrender to custody, to be available for investigations, or to attend court on the day and at the time and place appointed for the released person to do so;

5 (b) the person bound by a bond mentioned in subsection (1)(b) has, without reasonable excuse, failed to keep the peace; or

(c) the person bound by a bond mentioned in subsection (1)(c) has failed to be of good behaviour,

10 the court —

(d) must record the basis of such proof;

(e) must forfeit the bond, as far as it relates to the relevant person;

15 (f) may summon before the court each person bound by the bond;

(g) may call upon each surety bound by the bond to explain why the bond, as far as it relates to that surety, should not be forfeited; and

20 (h) may call upon the relevant person to pay a sum, being the whole or any part of the amount of the bond, or to explain why the relevant person should not pay that sum.

(3) If the explanation given by a surety is inadequate, and it is proved to the court's satisfaction that —

25 (a) in relation to a bond mentioned in subsection (1)(a), the surety is in breach of any of the surety's duties mentioned in section 104;

30 (b) in relation to a bond mentioned in subsection (1)(b), the surety has, without reasonable excuse, failed to ensure that the relevant person keeps the peace; or

(c) in relation to a bond mentioned in subsection (1)(c), the surety has, without reasonable excuse, failed to ensure that the relevant person is of good behaviour, the court —

(d) must record the basis of such proof; and 5

(e) may, having regard to all the circumstances of the case —

(i) forfeit the whole or any part of the amount of the bond, as far as it relates to the surety; and

(ii) order the surety to pay the amount forfeited. 10

(4) The court may order that any sum or amount mentioned in subsection (2)(h) or (3)(e) be paid by instalments.

(5) If the court calls upon the relevant person to pay the sum mentioned in subsection (2)(h), or to explain why the relevant person should not pay that sum, section 107(3) to (9) applies to the relevant person as it applies to a relevant person as defined in section 107(10). 15

(6) If any amount forfeited under subsection (3)(e) is not paid in full, the court may recover the amount unpaid by issuing an order for the attachment of any property, movable or immovable, belonging to the surety. 20

(7) The attachment of any property under subsection (6) may be carried out —

(a) by seizure of such property, which may be sold and the proceeds applied towards the payment of the amount forfeited; or 25

(b) by appointing a receiver, who may take possession of and sell such property, and apply the proceeds towards the payment of the amount forfeited.

(8) If immovable property attached under subsection (6) is sold, the officer under whose direction the attachment and sale was carried out may do any thing or act to transfer the title to the purchaser. 30

(9) If the amount forfeited under subsection (3)(e) is not paid in full or cannot be fully recovered by such attachment and sale, the court may commit to prison the surety for a term not exceeding 12 months.

5 (10) Any person may, not later than 7 days after the date any property is seized under subsection (7)(a) or taken possession of by the receiver under subsection (7)(b), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (6), and the court may make such order as it sees fit.

10 (11) Any unsatisfied part of the amount forfeited under subsection (3)(e) constitutes a judgment debt in favour of the Government, and nothing in this section prevents the Government from recovering it as such.

15 (12) The court may, on the application of a surety at any time after the surety is ordered to pay the amount forfeited under subsection (3)(e), reduce that amount and enforce part-payment only.

20 (13) In this section, “relevant person” means —

(a) the released person for whose appearance a bond mentioned in subsection (1)(a) is executed;

(b) the person bound by a bond mentioned in subsection (1)(b); or

25 (c) the person bound by a bond mentioned in subsection (1)(c).”.

Amendment of section 172

5. Section 172 of the principal Act is amended by deleting the full-stop at the end of the definition of “co-accused” and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

30 ““criminal case disclosure conference” means any conference held under sections 212 to 220 in respect of

any offence to which the criminal case disclosure procedures apply by virtue of section 211A;

“criminal case disclosure procedures” means the procedures under sections 212 to 220.”.

Amendment of section 318

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6. Section 318 of the principal Act is amended —

(a) by deleting the words “reformatory training,” in subsections (1) to (5);

(b) by deleting the words “from the date” in subsection (1) and substituting the words “beginning on the date”; and

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

“(1A) A sentence of reformatory training takes effect beginning on the date it was passed or at such later date as the court may determine.”.

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Amendment of section 394H

7. Section 394H of the principal Act is amended by deleting subsection (5) and substituting the following subsection:

“(5) The Registrar of the Supreme Court, any judge of the High Court or any Judge of the Court of Appeal may extend or abridge any period mentioned in subsection (2), (3) or (4).”.

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Amendment of section 394I

8. Section 394I of the principal Act is amended by deleting subsection (4) and substituting the following subsection:

“(4) The Registrar of the Supreme Court, any judge of the High Court or any Judge of the Court of Appeal may extend or abridge any period mentioned in subsection (1), (2) or (3).”.

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New section 425B

9. The principal Act is amended by inserting, immediately after section 425A, the following section:

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“Information not to be disclosed if prejudicial to national or public interests, etc.

425B.—(1) If —

5 (a) at any time after the commencement of a criminal investigation, any person makes an application to the officer of a law enforcement agency who is in charge of the investigation for information in any document or thing relating to the investigation; and

10 (b) the document or thing contains any sensitive information,

the officer may cause the sensitive information to be removed or sufficiently redacted before disclosing the contents or giving a copy of the document or thing to the person, whether or not the disclosure of the sensitive information is required by law.

15 (2) Subject to subsection (3), for the purposes of any criminal proceedings, the prosecution may cause any sensitive information contained in any document or thing relating to the proceedings that is in the prosecution’s possession or control to be removed or sufficiently redacted before disclosing the contents or giving a copy of the document or thing to the defence, whether or not the disclosure of the sensitive information is required by law.

20 (3) The prosecution must not cause any information to be removed or redacted under subsection (2) if —

25 (a) the prosecution intends to rely on the information as evidence for the purposes of the proceedings; or

30 (b) the disclosure of the information is required by any rule of law relating to the disclosure of unused material that tends to undermine the prosecution’s case or to strengthen the defence’s case.

(4) If the defence is aggrieved by the removal or redaction of any information by the prosecution under subsection (2), the defence may apply to the following court to order the disclosure of the information:

- (a) where the disclosure of the contents or giving a copy of the document or thing was made for the purposes of a criminal case disclosure conference held under Part IX or X, the court conducting the criminal case disclosure conference; 5
- (b) where the disclosure of the contents or giving a copy of the document or thing was made for the purposes of a pre-trial conference held under Part IX or X, the court conducting the pre-trial conference;
- (c) where the disclosure of the contents or giving a copy of the document or thing was made for the purposes of a trial, the court conducting the trial. 10

(5) The court hearing an application under subsection (4) must view the information removed or redacted by the prosecution in the absence of the defence. 15

(6) If an application under subsection (4) is made in criminal proceedings that are heard in open court, the application must be heard and dealt with in camera.

(7) If —

- (a) a court determines, upon an application made under subsection (4), that the information may not be removed or redacted by the prosecution under subsection (2) read with subsection (3); and 20
- (b) the disclosure of the information to the defence is required by law, 25

the court must order the prosecution to disclose the information to the defence by such date as the court determines.

(8) The court making an order under subsection (7) must, upon an application by the prosecution based on any reasonable grounds, postpone the date mentioned in that subsection to such other date as the court deems fit. 30

(9) To avoid doubt, this section does not affect the operation of any rule of law concerning privilege, secrecy or the protection or non-disclosure of any information.

(10) In this section, “sensitive information” means information that, if disclosed —

(a) may be prejudicial to the public safety, public security or propriety, public order, national interest or national security of Singapore or any part of Singapore;

(b) may endanger the safety of any particular person;

(c) may prejudice the effective conduct of any ongoing or future operation or investigation of any law enforcement agency; or

(d) may otherwise be prejudicial to the interests of justice in any criminal investigation or criminal proceedings.”.

Saving and transitional provisions

10.—(1) Despite section 6, section 318 of the principal Act as in force immediately before the date of commencement of section 6 continues to apply in relation to any person who, before that date, has been convicted of an offence but has not been sentenced by a court for the offence.

(2) Section 9 applies in relation to any criminal investigation or criminal proceedings whether commenced before, on or after the date of commencement of that section.

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

EXPLANATORY STATEMENT

This Bill seeks to amend the Criminal Procedure Code (Cap. 68) —

(a) to confer powers of investigation on certain law enforcement officers when investigating offences related to audiovisual recording of statements;

- (b) to revise the procedure for the forfeiture of a bond (whether or not with sureties), a bond to keep the peace (whether or not with sureties) and a bond for good behaviour (whether or not with sureties);
- (c) to provide that a sentence of reformatory training cannot be backdated;
- (d) to confer powers on the Registrar of the Supreme Court, any judge of the High Court or any Judge of the Court of Appeal to extend or abridge the time periods of certain applications;
- (e) to provide for the removal or redaction of sensitive information by an officer of a law enforcement agency or the prosecution under certain circumstances; and
- (f) to make other technical amendments to the Code.

Clause 1 relates to the short title and commencement.

Clause 2 makes technical amendments to section 20.

Clause 3 inserts new sections 40A and 40B. New section 40A empowers an officer of a prescribed law enforcement agency to investigate an offence under the regulations made under section 428(2)(b) (which relates to the making of regulations for the recording of statements in the form of audiovisual recording) under certain circumstances. When investigating such an offence, the officer has all the powers of a police officer under the Code in relation to an investigation into an arrestable offence. New section 40B deems an officer of a prescribed law enforcement agency exercising the powers pursuant to new section 40A when investigating an offence in relation to an audiovisual recording to be a police officer not below the rank of inspector of police.

Clause 4 repeals and re-enacts sections 107 and 107A, which provide for the forfeiture of various kinds of bonds, whether with or without sureties.

Clause 5 amends section 172 by inserting new definitions for “criminal case disclosure conference” and “criminal case disclosure procedures”.

Clause 6 makes a technical amendment to section 318(1). It also inserts a new subsection (1A) to provide that a sentence of reformatory training can only take effect beginning on the date the sentence was passed or at such later date the court may determine.

Clauses 7 and 8 amend sections 394H and 394I, respectively, to empower the Registrar of the Supreme Court, any judge of the High Court or any Judge of the Court of Appeal to extend or abridge the time periods of certain applications.

Clause 9 inserts a new section 425B to allow an officer of a law enforcement agency, who is in charge of a criminal investigation, to cause sensitive information to be removed or sufficiently redacted from any document or thing relating to the investigation before disclosing the contents or giving a copy of that document or

thing to any person, whether or not the disclosure of the sensitive information is required by law. “Sensitive information” is defined. It includes, among other things, information that if disclosed, may prejudice the effective conduct of any ongoing or future operation or investigation of any law enforcement agency. An example is information that may reveal the operational processes or capabilities of any law enforcement agency.

The new section 425B also allows the prosecution, for the purposes of any criminal proceedings, to cause sensitive information to be removed or sufficiently redacted from any document or thing relating to the proceedings before disclosing the contents or giving a copy of that document or thing to the defence, whether or not the disclosure of the sensitive information is required by law. However, the prosecution cannot remove or redact information if the prosecution intends to rely on the information as evidence for the purposes of the proceedings, or the disclosure of the information is required by any rule of law relating to the disclosure of unused material that tends to undermine the prosecution’s case or to strengthen the defence’s case.

If the defence is aggrieved by the removal or redaction of information by the prosecution, the defence may make an application to the relevant court to order disclosure of the sensitive information.

Clause 10 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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