

Competition (Amendment) Bill

Bill No. 32/2005.

Read the first time on 17th October 2005.

A BILL

intituled

An Act to amend the Competition Act 2004 (Act 46 of 2004).

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 Competition (Amendment) Act 2005 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 64

2. Section 64(5) of the Competition Act 2004 is amended —

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

(b) by deleting the full-stop at the end of paragraph (e)(ii) and substituting the word “; and”, and by inserting immediately
10 thereafter the following paragraph:

“(f) take any step which appears to be necessary for the purpose of preserving or preventing interference with any document which he considers relates to any matter relevant to the investigation.”.

15 Repeal and re-enactment of section 66

3. Section 66 of the Competition Act 2004 is repealed and the following section substituted therefor:

“Self-incrimination and savings for professional legal advisers

20 **66.**—(1) A person is not excused from disclosing any information or document to the Commission or, as the case may be, to an inspector or investigating officer, under a requirement made of him under any provision of this Act on the ground that the disclosure of the information or document might tend to incriminate him.

25 (2) Where a person claims, before making a statement disclosing information that he is required to under any provision of this Act to the Commission or, as the case may be, to an inspector or investigating officer, that the statement might tend to incriminate him, that statement —

30 (a) shall not be admissible in evidence against him in criminal proceedings other than proceedings under Part V; but

(b) shall, for the avoidance of doubt, be admissible in evidence in civil proceedings, including proceedings under this Act.

(3) Nothing in this Part shall —

- (a) compel a professional legal adviser to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity; or
- (b) authorise the taking of any such document or other material which is in his possession.

(4) A professional legal adviser who refuses to disclose the information or produce the document or other material referred to in subsection (3) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.”.

Amendment of section 71

4. Section 71 of the Competition Act 2004 is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Any person, other than a person referred to in subsection (1), to whom the Commission has given a direction under section 67 or 69 may appeal within the prescribed period to the Board against, or with respect to, that direction.”.

New section 91A

5. The Competition Act 2004 is amended by inserting, immediately after section 91, the following section:

“Proceedings conducted by officers of Commission

91A.—(1) Proceedings in respect of an offence under this Act may be conducted by an officer of the Commission who is authorised in writing in that behalf by the Chief Executive.

(2) Notwithstanding the provisions of any written law, a legal officer of the Commission who has been admitted as an advocate and solicitor under the Legal Profession Act (Cap. 161) may —

- (a) appear in any civil proceedings involving the Commission in the performance of its functions or duties under any written law; and
- (b) make and do all acts and applications in respect of the civil proceedings on behalf of the Commission.”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Competition Act 2004 (Act 46 of 2004).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 64(5) to empower an officer of the Competition Commission of Singapore (the Commission), when entering any premises without a warrant, to take any step which appears to be necessary for the purpose of preserving or preventing interference with any document which the officer considers relates to any matter relevant to an investigation.

Clause 3 repeals and re-enacts section 66. The new section 66 provides that a person is not excused from disclosing information to the Commission or, as the case may be, to an inspector or investigating officer, pursuant to a requirement made of the person under the Act, on the ground that the disclosure might incriminate him. A statement made will not be admissible in evidence against the person in criminal proceedings other than those under Part V, but will be admissible in evidence in civil proceedings, including proceedings under the Act. The new section further provides for legal professional privilege for professional legal advisers, except that a professional legal adviser is obliged to give the name and address of the person to whom or by or on behalf of whom the privileged communication was made.

Clause 4 amends section 71 to provide that, in addition to the persons specified in subsection (1), any other person to whom the Commission has given a direction under section 67 or 69 also has a right of appeal to the Competition Appeal Board against, or with respect to, that direction.

Clause 5 inserts a new section 91A which empowers certain officers of the Commission to conduct prosecution in respect of offences under the Act, and a legal officer of the Commission who is an advocate and solicitor to appear in civil proceedings involving the Commission.

EXPENDITURE OF PUBLIC MONEY

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