

Home Team Science and Technology Agency Bill

Bill No. 15/2019.

Read the first time on 8 July 2019.

HOME TEAM SCIENCE AND TECHNOLOGY AGENCY ACT 2019

(No. of 2019)

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A BILL

intituled

An Act to establish the Home Team Science and Technology Agency
and to make consequential amendments to certain other Acts.

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

PART 1
PRELIMINARY

Short title and commencement

5 **1.** This Act is the Home Team Science and Technology Agency Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires —

10 “Agency” means the Home Team Science and Technology Agency established by section 3;

“Chairperson”, in relation to the Agency, means the member of the Agency who is appointed under section 12 as the Chairperson of the Agency, and includes any person appointed under section 14 to act in that capacity;

15 “Chief Executive” means the Chief Executive of the Agency appointed under section 29, and includes any person acting in that capacity;

“committee” means a committee of the Agency appointed under section 27;

20 “committee member” means an individual appointed to be a member of a committee;

“Deputy Chairperson”, in relation to the Agency, means a member of the Agency who is appointed under section 12 as a Deputy Chairperson of the Agency;

25 “forensic purpose” means —

(a) investigating an offence or a suspected offence under any written law or offences generally;

(b) investigating the death of an individual or identifying a deceased individual;

30 (c) investigating the whereabouts of or identifying a missing individual; or

(d) investigating the cause or origin of any fire;

“framework contract” means a contract between one or more procuring organisations in the Singapore public sector and one or more suppliers the purpose of which is to establish the terms governing orders for the supply of goods, works or services to be placed during a fixed period; 5

“functions”, in relation to the Agency, means functions conferred on the Agency by this Act or any other Act;

“Home Team agency” means any department of the Government within the Ministry of Home Affairs; 10

“member”, in relation to the Agency, means a member of the Agency appointed under section 10, and includes any person appointed under section 14 to act in that capacity;

“public body” has the meaning given by the Public Sector (Governance) Act 2018 (Act 5 of 2018); 15

“public security purpose” means —

(a) the maintaining of law and order and the preserving or restoring of public peace and safety in Singapore;

(b) the prevention and detection of crimes and offences under any written law; or 20

(c) the prevention of, and the response to, any serious incident within the meaning of section 3 of the Public Order and Safety (Special Powers) Act 2018 (Act 26 of 2018);

“Singapore public sector” has the meaning given by the Public Sector (Governance) Act 2018; 25

“transfer date” means a date specified by the Minister by order in the *Gazette* for the purposes of Part 8.

PART 2

ESTABLISHMENT, FUNCTIONS AND
POWERS OF AGENCY**Home Team Science and Technology Agency**

- 5 **3.** A body called the Home Team Science and Technology Agency is established by this section.

Agency is body corporate

4.—(1) The Agency —

- (a) is a body corporate with perpetual succession;
- 10 (b) may acquire, hold and dispose of real and personal property; and
- (c) may sue and be sued in its corporate name.

(2) The Agency may use, and operate under, one or more trading names approved by the Minister.

- 15 (3) A trading name can be an abbreviation or adaptation of the Agency's corporate name, or a name other than the Agency's corporate name.

- (4) The Agency must cause notice of every trading name approved under subsection (2) to be published in the *Gazette*; but failure to do so does not invalidate the approval or use of that name.
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Functions of Agency

5.—(1) The Agency has the following functions:

- (a) to provide scientific and technological services for or in relation to a forensic purpose or public security purpose to any Home Team agency or organisation in the Singapore public sector;
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- (b) to carry out, support and facilitate the research and development and application of science and technology in relation to forensic purposes or public security purposes for the benefit of any Home Team agency or organisation in the Singapore public sector;
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- (c) to manage scientific or technological cooperation between any Home Team agency and other persons in relation to a forensic purpose or public security purpose;
- (d) to undertake as an agent of the Government the procurement of goods and services relating to any Home Team agency; 5
- (e) to manage and administer contracts to which any Home Team agency is party so as to ensure that contractual obligations and activities are performed by all parties to the contract; 10
- (f) to establish and manage any framework contract connected with or related to science and technology in relation to forensic purposes or public security purposes, for the benefit of any Home Team agency or organisation in the Singapore public sector; 15
- (g) to design and develop security systems and provide systems design services for the benefit of the Singapore public sector;
- (h) to perform such other functions as may be conferred on the Agency by any other Act. 20

(2) In performing the functions conferred on the Agency by subsection (1), the Agency is to have regard to —

- (a) efficiency and economy;
- (b) the potential impact or benefit of scientific or technological advances on the operations of any Home Team agency; and 25
- (c) the evolving nature of criminal activities in and security threats to Singapore.

(3) In addition to the functions conferred by this section, the Agency may undertake such other functions as the Minister may assign to the Agency by notification in the *Gazette*, and in so undertaking — 30

- (a) the Agency is deemed to be fulfilling the purposes of this Act; and

(b) the provisions of this Act apply to the Agency in respect of those other functions and duties.

(4) Nothing in this section imposes on the Agency, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which the Agency would not otherwise be subject.

Powers of Agency

6.—(1) The Agency has power to do all things necessary or expedient to be done for, or in connection with, the performance of its functions.

(2) Without limiting subsection (1), the powers of the Agency include the following:

- (a) to enter into contracts, agreements or arrangements for itself, or on behalf of the Government in relation to any Home Team agency;
- (b) to establish and manage framework contracts for the benefit of any Home Team agency or organisation in the Singapore public sector;
- (c) to acquire, develop, hold and dispose of real or personal property;
- (d) to appoint and act through agents;
- (e) to employ staff and engage consultants;
- (f) to publish or provide any information, or publish or sponsor the publication of works;
- (g) to apply for, obtain and hold, whether on its own behalf or jointly with any other person, any intellectual property rights;
- (h) to enter into agreements or arrangements for the commercial exploitation of those intellectual property rights, whether by assignment, licensing or otherwise;
- (i) with the approval of the Minister, to form or join in the formation of a company, association, trust or partnership or enter into a joint venture with any person;

- (j) to be a member of a company, association, trust or partnership;
- (k) to provide financial incentives, support, grant, aid or assistance to any person;
- (l) to charge for the provision of goods or services, or the performance of work, by or on behalf of the Agency; 5
- (m) to waive the payment of fees and charges payable to the Agency;
- (n) to accept gifts, grants, bequests and devises made to the Agency, and act as trustee of money and other property vested in the Agency on trust; 10
- (o) to provide technical, consultancy or advisory services to the Government or any other person in Singapore or overseas on any matter related to, or connected with, a forensic purpose or public security purpose; 15
- (p) to collect, compile, analyse and disseminate information of a statistical nature or otherwise concerning matters relating to its functions;
- (q) to provide scholarships and training grants in the field of science and technology; 20
- (r) to do any other thing that is incidental or conducive to the performance of its functions.

(3) To avoid doubt, subsection (1) does not limit any other power given to the Agency by any other provision in this Act or by any other Act. 25

(4) The Agency may exercise its powers inside or outside Singapore.

(5) To avoid doubt, nothing in this Act is to be construed as preventing the exercise of any power or discharge of any function of the Transport Safety Investigation Bureau of Singapore established by section 8(1) of the Transport Safety Investigations Act 2018 (Act 36 of 2018). 30

Directions of Minister, etc.

7.—(1) The Minister may give to the Agency any direction under section 5 of the Public Sector (Governance) Act 2018.

(2) To avoid doubt, the Minister is entitled —

- 5 (a) to have information in the possession of the Agency; and
 (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(3) For the purposes of subsection (2), the Minister may request the Agency —

- 10 (a) to provide information to the Minister; or
 (b) to give the Minister access to information.

(4) The Agency must comply with a request under subsection (3).

(5) In this section —

- 15 “document” includes any tape, disc or other device or medium on which information is recorded or stored;
 “information” means information specified, or of a description specified, by the Minister that relates to the functions of the Agency.

Agency’s symbol, etc.

20 **8.**—(1) The Agency has the exclusive right to the use of one or more symbols or representations as the Agency may select or devise (each called in this section the Agency’s symbol or representation), and to display or exhibit those symbols or representations in connection with the Agency’s activities or affairs.

25 (2) A person who —

- (a) uses, without the prior written permission of the Agency, a symbol or representation identical to the Agency’s symbol or representation; or

(b) uses a symbol or representation that so resembles the Agency's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

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PART 3

CONSTITUTION AND MEMBERSHIP OF AGENCY

Division 1 — Appointment, resignation and removal

Membership of Agency

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9.—(1) The Agency consists of at least 8 and not more than 20 members.

(2) One of the members (who is not the Chairperson) may be the Chief Executive.

Appointment of Agency members

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10.—(1) Each member of the Agency is to be appointed by the Minister.

(2) Every appointment must be made by instrument in writing given to the member.

(3) The instrument must state —

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(a) the term of the appointment; and

(b) the date the appointment takes effect, which must not be a date earlier than the date the instrument is received by the member.

Membership disqualification

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11.—(1) In appointing members of the Agency, the Minister must have regard to whether the members of the Agency will collectively possess the appropriate knowledge, skills and experience to assist the Agency to perform its functions effectively.

(2) However, the following individuals are disqualified from being a member of the Agency:

(a) an undischarged bankrupt or an individual who has an arrangement with any of his or her creditors;

5 (b) a Judge or judicial officer;

(c) an individual who has been sentenced to imprisonment for a term of 6 months or more, and has not received a free pardon;

(d) an individual who is —

10 (i) disqualified under section 154(1) of the Companies Act (Cap. 50) from acting as a director, or taking part (whether directly or indirectly) in the management, of a company during the period of disqualification in that section; or

15 (ii) disqualified from being a director or in any way, whether directly or indirectly, being concerned in, or from taking part in, the management of a company by a court order under section 149(1), 149A(1) or 154(2) of the Companies Act during the period of disqualification in the court order;

20 (e) an individual who lacks capacity in respect of his or her duties as a member within the meaning of the Mental Capacity Act (Cap. 177A), or in respect of whom an order is made under section 10 of the Mental Health (Care and Treatment) Act (Cap. 178A).

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Chairperson and Deputy Chairperson

12.—(1) The Minister may, by instrument in writing, appoint —

(a) a member (other than the Chief Executive) to be the Chairperson of the Agency for such period as is specified in the instrument; and

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(b) one or more members (other than the Chairperson) to be a Deputy Chairperson of the Agency for such period as is specified in the instrument.

(2) The Chairperson or a Deputy Chairperson holds office until whichever of the following first happens:

- (a) his or her term of office as Chairperson or Deputy Chairperson (as the case may be) expires;
- (b) he or she ceases to hold office as a member of the Agency; 5
- (c) the Minister terminates the appointment as Chairperson or Deputy Chairperson, as the case may be.

(3) A Deputy Chairperson has and may exercise all of the functions and powers of the Chairperson in relation to a matter if —

- (a) the Chairperson is unavailable; or 10
- (b) the Chairperson is interested in the matter (within the meaning given by Part 4 of the Public Sector (Governance) Act 2018).

Premature vacancies

13.—(1) If a premature vacancy occurs in the office of any member of the Agency, the Minister may, subject to sections 9, 10 and 11, appoint an individual to fill the vacancy and hold that office for the remainder of the term for which the vacating member was appointed. 15

(2) In this section, “premature vacancy”, for an office, means a vacancy that occurs in that office by virtue of section 20(1) or for any reason other than the expiry of the term of office. 20

Acting Chairperson and members

14.—(1) The Minister may appoint an individual to act temporarily as the Chairperson during any period, or during all periods, when the Chairperson — 25

- (a) is absent from duty or Singapore; or
- (b) is, for any reason, unable to perform the duties of the office.

(2) The Minister may appoint an individual to act temporarily as a member of the Agency (other than the Chairperson) during any period, or during all periods, when the member — 30

(a) is absent from duty or Singapore; or

(b) is, for any reason, unable to perform the duties of the office.

5 (3) An individual is ineligible for appointment under this section to act as the Chairperson or a member of the Agency if the individual is disqualified under section 11(2) for appointment as a member.

Removal of member

15 **15.**—(1) The Minister may, at any time and without giving any reason, remove a member of the Agency from office.

10 (2) Every removal under subsection (1) must be made by written notice given to the member with a copy to the Agency.

(3) The notice must state the date the removal takes effect, which must not be a date earlier than the date the notice is received by the member.

Resignation from office

15 **16.**—(1) A member of the Agency may resign his or her office by written notice to the Minister (with a copy to the Agency) signed by the member.

20 (2) The resignation is effective when the notice in subsection (1) is received by the Minister or at any later time specified in the notice.

Validity of acts, etc.

17.—(1) Despite section 33 of the Interpretation Act (Cap. 1), the exercise of any power or performance of any function of the Agency by the Agency is not affected merely because at the relevant time —

25 (a) there was a vacancy in the membership of the Agency, including a vacancy arising from the failure to appoint a member;

30 (b) there was some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency; or

- (c) there was an irregularity in the Agency’s decision-making procedure that does not affect the merits of the decision made.

(2) The acts of an individual as a member of the Agency are not affected merely because — 5

- (a) there was some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency; or
- (b) in the case of an individual acting in the capacity of the Chairperson, member or Chief Executive, the occasion for the individual so acting, or for his or her appointment, had not arisen or had ended. 10

Division 2 — Terms and conditions for members

Term of appointment

18.—(1) Subject to section 20, each member of the Agency holds office for a period of 3 years or any shorter period specified in the instrument of appointment. 15

(2) A member of the Agency may be re-appointed.

Remuneration, etc.

19. The members of the Agency may be paid, out of the funds of the Agency, such salaries, fees and allowances as the Minister from time to time determines. 20

Vacation of office

20.—(1) A member of the Agency ceases to hold office if he or she — 25

- (a) dies;
- (b) is adjudicated a bankrupt or makes an arrangement with any of his or her creditors;
- (c) becomes otherwise disqualified from being a member under section 11(2); 30

- (d) is removed from office in accordance with section 15;
- (e) resigns in accordance with section 16;
- (f) fails, without reasonable cause, to disclose any interest required under Division 1 of Part 4 of the Public Sector (Governance) Act 2018 and a notice is given under that Act to the Minister about that default;
- (g) fails to attend 3 consecutive meetings of the Agency without the approval of the Agency; or
- (h) is not re-appointed when his or her term of office expires.

(2) A member of the Agency is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.

PART 4

DECISION-MAKING BY AGENCY

Division 1 — Meetings

Procedure generally

21. Subject to this Act and the Public Sector (Governance) Act 2018, the members of the Agency may regulate their own proceedings and business.

Notice of meetings

22.—(1) The Agency must hold such meetings as are necessary for the performance of its functions.

(2) The Chairperson must appoint the times and places of the meetings of the Agency, and cause notice of those meetings to be given to each member, including those not present when the appointment is made.

(3) The meetings of the Agency must be held in accordance with the provisions of this Act and Part 4 of the Public Sector (Governance) Act 2018.

Quorum

23.—(1) The quorum is the number that is one-third the number of members of the Agency.

(2) No business may be transacted at a meeting of the Agency if a quorum is not present.

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Presiding at meetings

24.—(1) At a meeting of the Agency, the following person presides:

(a) if there is a Chairperson and he or she is present and is not interested (within the meaning given by Part 4 of the Public Sector (Governance) Act 2018) in the matter — the Chairperson;

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(b) if there is no Chairperson, or the Chairperson is not present or is interested (within the meaning given by Part 4 of the Public Sector (Governance) Act 2018) in the matter, and a Deputy Chairperson who is not so interested in the matter is present — the Deputy Chairperson;

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(c) in any other case, the member of the Agency elected from among themselves to preside.

(2) The Deputy Chairperson or member mentioned in subsection (1)(b) or (c) may exercise all the powers and functions of the Chairperson for the purposes of the meeting.

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Voting at meetings

25.—(1) Each member of the Agency has one vote.

(2) In addition to his or her general vote, the member presiding at a meeting has, in the case of an equality of votes, a casting vote.

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(3) A resolution of the Agency is passed if it is agreed by all members present without dissent, or if a majority of the members who are entitled to vote on the matter cast votes in favour of it.

(4) A member present at a meeting of the Agency is presumed to have agreed to, and to have voted in favour of, a resolution of the Agency unless he or she expressly dissents from or votes against the

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resolution at the meeting or is prevented from voting by section 26 of the Public Sector (Governance) Act 2018.

Execution of documents

26.—(1) The Agency must have a seal.

5 (2) The seal of the Agency is to be kept and used as authorised by the Agency.

(3) A document is duly executed by the Agency if —

10 (a) the seal of the Agency is affixed to the document in the presence of one of its members who must sign the document to attest that the seal was so affixed, and the document is signed —

(i) by any 2 members generally or specially authorised by the Agency for the purpose; or

(ii) by one member and the Chief Executive; or

15 (b) the document is signed on behalf of the Agency by a person or persons authorised to do so by the Agency and in accordance with the terms of that authorisation.

(4) A document purporting to be executed in accordance with this section is presumed to be duly executed until the contrary is shown.

20 (5) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Agency appearing on a document.

25 (6) When a document is produced bearing a seal purporting to be the seal of the Agency, it must be presumed that the seal is the seal of the Agency until the contrary is shown.

Division 2 — Committees

Appointment of committees

30 **27.**—(1) The Agency may, by resolution, appoint such number of committees as the Agency thinks fit for purposes which, in the opinion of the Agency, would be better regulated and managed by means of such committees.

(2) A committee appointed under this section may consist of such number of individuals as the Agency thinks fit, and may include individuals who are not members of the Agency.

(3) Without limiting subsection (1), the Agency may appoint committees —

(a) to advise the Agency on any matters relating to the Agency's functions and powers that are referred to the committee by the Agency; or

(b) to perform or exercise any of the Agency's functions and powers that are delegated to the committee, if the committee includes at least one member of the Agency.

(4) An individual may not be appointed as a member of a committee unless, before appointment, he or she discloses to the Agency the details of any interest (within the meaning given by Part 4 of the Public Sector (Governance) Act 2018) the individual may have if he or she were a member of that committee.

Proceedings of committees

28.—(1) Section 17 applies to a committee, and to committee members or individuals purporting to be committee members, with the necessary modifications.

(2) Subject to this Act and the Public Sector (Governance) Act 2018, a committee may regulate its own proceedings and business.

PART 5

PERSONNEL MATTERS

Appointment of Chief Executive

29.—(1) There must be a Chief Executive of the Agency, whose appointment, removal, discipline and promotion must be in accordance with the Public Sector (Governance) Act 2018.

(2) The Agency may, subject to the Public Sector (Governance) Act 2018, appoint an individual to act temporarily as the Chief

Executive during any period, or during all periods, when the Chief Executive —

(a) is absent from duty or Singapore; or

(b) is, for any reason, unable to perform the duties of the office.

Officers, etc.

30. The Agency may, subject to the Public Sector (Governance) Act 2018, appoint and employ, on such terms and conditions as the Agency may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

Preservation of secrecy

31.—(1) A member of the Agency, an employee of the Agency, the Chief Executive or a committee member, who has information in his or her capacity as such that would not otherwise be available to him or her, must not intentionally or negligently disclose that information to any person except —

(a) in the performance of the Agency's functions;

(b) with the prior authorisation from the Agency to do so;

(c) for the purposes of any proceedings for an offence under this Act, or any report of those proceedings;

(d) as required by an order of court;

(e) in complying with the requirements in this Act for members to disclose interests; or

(f) as required of or allowed by the Agency, the Chief Executive, the member or employee of the Agency or the committee member, by or under this Act or any other Act.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Protection from personal liability

32. No liability shall lie against any member, any committee member, the Chief Executive or any employee of the Agency, or any other person acting under the direction of the Agency, for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

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- (a) the exercise or purported exercise of any power of the Agency; or
- (b) the performance or purported performance of any function of the Agency.

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PART 6

FINANCIAL PROVISIONS

Financial year

33. The financial year of the Agency begins on 1 April of each year and ends on 31 March of the succeeding year except that the first financial year of the Agency begins on the date of commencement of this Act and ends on 31 March of the succeeding year.

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Revenue and property of Agency

34. The funds and property of the Agency include —

- (a) all moneys paid to the Agency by way of grants, subsidies, donations, gifts and contributions for the purposes of the Agency;
- (b) all moneys paid to, and all other moneys and property lawfully received by, the Agency for the purposes of the Agency;
- (c) all fees and charges payable to the Agency under this Act or any other Act administered by the Agency;
- (d) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers of the Agency under this Act or any other Act administered by the Agency;

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- (e) all moneys borrowed by the Agency under this Act; and
- (f) all accumulations of income derived from any property or money mentioned in paragraphs (a) to (e).

Bank accounts

5 **35.**—(1) The Agency must open and maintain one or more accounts with such bank or banks as the Agency thinks fit.

(2) Every such account may only be operated by a person who is authorised to do so by the Agency.

Financial accounts and records

10 **36.** The Agency must —

(a) keep proper accounts and records of its transactions and affairs; and

(b) do all things necessary to ensure that —

15 (i) all payments out of its moneys are correctly made and properly authorised; and

(ii) adequate control is maintained over the property and assets of, or in the custody of, the Agency and over the expenditure incurred by the Agency.

Power of investment

20 **37.** The Agency may invest its moneys in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act.

Issue of shares, etc.

38. As a consequence of —

25 (a) the vesting of any property, rights or liabilities in the Agency under this Act; or

- (b) any capital injection or other investment by the Government in the Agency in accordance with any other written law,

the Agency must issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct. 5

Borrowing power

39.—(1) The Agency cannot raise loans for the performance of its functions under this Act or any other Act administered by the Agency except in accordance with this section.

(2) Subject to subsection (3), the Agency may raise loans by — 10

- (a) mortgage, overdraft or other means, with or without security;

- (b) charge, whether legal or equitable, on any property vested in the Agency or on any other revenue receivable by the Agency under this Act or any other written law; or 15

- (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

(3) The Agency may raise loans —

- (a) from the Government; or

- (b) with the approval of the Minister, from another source, whether within or outside Singapore. 20

(4) For the purposes of this section, the power to raise loans includes the power to make any financial agreement under which credit facilities are granted to the Agency for the purchase of goods, materials or things. 25

PART 7
GENERAL

Offences by corporations

5 **40.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

10 (b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

15 (i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

20 (b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

25 (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

30 (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of — 5

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence. 10

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A); 15

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

(b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation; 20

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and 25

(b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

41.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

5 (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the employee or agent had that state of mind,

10 is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

(a) who is —

15 (i) an officer of the unincorporated association or a member of its governing body;

(ii) a partner in the partnership; or

20 (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

25 (i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

30 (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all

reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly. 5

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear. 10

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code; or

(b) the Evidence Act or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence. 15

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes — 20

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and 25

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and 30

- (b) the person's reasons for the intention, opinion, belief or purpose.

Service of documents

5 **42.**—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

(a) by giving it to the individual personally;

10 (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

15 (c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;

(d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

20 (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(f) by sending it by email to the individual's last email address.

25 (3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

(a) by giving it to any partner or other similar officer of the partnership;

(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

30 (c) by sending it by fax to the fax number used at the partnership's business address; or

(d) by sending it by email to the partnership's last email address.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) may be served — 5

(a) by giving it to the body corporate's secretary or other similar officer, or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's registered office or principal office in Singapore; 10

(c) by sending it by fax to the fax number used at the body corporate's registered office or principal office in Singapore; or

(d) by sending it by email to the body corporate's last email address. 15

(5) Service of a document under subsection (1) takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission; 20

(b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent; and

(c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered). 25

(6) However, service of any document under this Act on a person by email may be effected only with the person's prior consent to service in that way.

(7) This section does not apply to documents to be served in proceedings in court. 30

(8) In this section —

“business address” means —

(a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or

5 (b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;

“document” includes a notice or an order permitted or required by this Act to be served;

10 “last email address” means —

(a) the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act; or

15 (b) the last email address of the addressee concerned known to the person giving or serving the document;

“residential address” means an individual’s usual or last known place of residence in Singapore.

Regulations

20 **43.** The Agency may, with the approval of the Minister, make regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

PART 8

25 TRANSFER OF UNDERTAKINGS TO AGENCY

Interpretation of this Part

44. In this Part, unless the context otherwise requires —

30 “asset”, in relation to the transferor, means property of any kind (whether tangible or intangible, whether arising from, accruing under, created or evidenced by or the subject of,

an instrument or otherwise and whether actual or contingent) of the transferor on the eve of the transfer date and includes, without limitation, any —

- (a) legal or equitable interest in real or personal property;
- (b) chose in action; 5
- (c) security;
- (d) money;
- (e) intellectual property;
- (f) infrastructure, plant and equipment;
- (g) records and information (including data) in any form; 10
and
- (h) right;

“liability”, in relation to the transferor, means any liability, duty or obligation (whether actual or contingent, liquidated or unliquidated, and whether owed alone or jointly, or jointly and severally with any other person) of the transferor on the eve of the transfer date; 15

“records”, in relation to the transferor, means registers, papers, documents, minutes, receipts, books of account and other records, however compiled, recorded or stored, of the transferor existing on the eve of the transfer date; 20

“right”, in relation to the transferor, means any right, power, privilege or immunity of the transferor on the eve of the transfer date;

“transferor” means the Government; 25

“transferring employee” means any individual who, on the eve of the transfer date, is a public officer holding a post in the Science and Technology Group of the Ministry of Home Affairs, but does not include any individual whose name is on the list of excluded individuals approved by the Minister. 30

Transfer of undertakings to Agency

5 **45.—**(1) On the transfer date, all assets and liabilities of the transferor that relate solely to the functions of the Science and Technology Group of the Ministry of Home Affairs are transferred to the Agency.

(2) When any assets or liabilities are transferred under subsection (1), the following provisions have effect:

10 (a) the assets of the transferor that are the subject of the transfer vest in the Agency by virtue of this section and without the need for any further conveyance, transfer, assignment or assurance;

(b) the liabilities of the transferor that are the subject of the transfer become by virtue of this section the liabilities of the Agency;

15 (c) all legal or other proceedings relating to those assets or liabilities that are started before the transfer date by or against the transferor and pending immediately before that date are taken to be proceedings pending by or against the Agency;

20 (d) any legal or other proceedings relating to those assets or liabilities which could have been started immediately before the transfer date by or against the transferor may be started by or against the Agency;

25 (e) a judgment or order of a court or other tribunal obtained before the transfer date by or against the transferor relating to those assets or liabilities may be enforced by or against the Agency;

30 (f) any document relating to legal or other proceedings relating to those assets or liabilities that has been served on or by the transferor before the transfer date is taken, where appropriate, to have been served on or by the Agency;

- (g) any act, matter or thing done or omitted to be done before the transfer date in relation to those assets or liabilities by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Agency; 5
- (h) a reference in any written law, in any instrument made under any Act, in any contract, agreement, arrangement or undertaking, or in any document of any kind to the transferor, to the extent to which the reference relates to those assets or liabilities, is taken to be, or includes, a reference to the Agency. 10
- (3) The operation of this section does not —
- (a) constitute a breach of, or default under, an Act or other law, or otherwise a civil wrong or criminal wrong; 15
- (b) constitute a breach of duty of confidence (whether arising by contract, in equity, by custom, or in any other way);
- (c) constitute a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities or the disclosure of any information; 20
- (d) terminate an agreement or obligation, or fulfil any condition that allows a person to terminate any agreement or obligation, or gives rise to any right or remedy in respect of any agreement or obligation; 25
- (e) cause any contract or other instrument to be void or otherwise unenforceable;
- (f) frustrate any contract;
- (g) release a surety or other obligor or obligee wholly or in part from an obligation; or 30
- (h) constitute an event of breach of, or default under, any contract or other instrument.
- (4) No attornment to the Agency by a lessee from the transferor is required for the purpose of this section.

Transferring secondments and employees to Agency

46.—(1) On the transfer date, every transferring employee —

(a) stops being an employee of the transferor; and

(b) is each transferred to the service, and becomes an employee, of the Agency on terms no less favourable than those enjoyed by the employee on the eve of the transfer date.

(2) The transfer of a transferring employee to the Agency —

(a) does not interrupt continuity of service;

(b) does not constitute a retrenchment or redundancy; and

(c) does not entitle any employee so transferred to any payment or other benefit merely because he or she stops being employed by the transferor.

(3) A certificate purporting to be signed by the Minister certifying that an individual named in the certificate has been transferred, with effect from the transfer date, by virtue of this section to the Agency, is admissible in evidence in any proceedings as evidence of the matters stated in it.

(4) Nothing in this section prevents —

(a) any of the terms and conditions of employment of an individual transferred under this section from being altered by or under any law, award or agreement with effect from any time after the transfer date; or

(b) an individual transferred under this section from resigning from the Agency at any time after the transfer date, in accordance with the terms and conditions of his or her employment then applicable.

(5) To avoid doubt, section 18A of the Employment Act (Cap. 91) does not apply to the transfer under this Part of any transferring employee to the Agency.

(6) On the transfer date, every public officer or employee of any other public body seconded to the Science and Technology Group of the Ministry of Home Affairs under either of the following that is in force on the eve of the transfer date, continues on secondment to the Agency:

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- (a) an arrangement made by the transferor;
- (b) an agreement or arrangement between the transferor and a public body.

General preservation of employment terms

47.—(1) The service with the Agency of an employee transferred under section 46 (called in this section a transferred employee) must be regarded for all purposes as having been continuous with the service of the employee with the transferor immediately before the transfer date.

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(2) On the transfer date —

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- (a) a transferred employee retains all accrued rights as if employment with the Agency were a continuation of employment with the transferor;
- (b) the liabilities of the transferor relating to the transferred employee's accrued rights to leave and superannuation become the liabilities of the Agency; and
- (c) a reference to the transferor in the contract of employment that had effect in relation to the transferred employee immediately before the transfer date is taken to be, or includes, a reference to the Agency.

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(3) For any conduct of the transferred employee when he or she was employed by the transferor which would have rendered the employee liable to be reprimanded, reduced in rank, retired, dismissed or punished by the transferor, the Agency may —

- (a) start any disciplinary proceedings against that employee;
- (b) carry on and complete any disciplinary proceedings started by the transferor against the transferred employee if those proceedings are pending on the eve of the transfer date; and

30

(c) reprimand, reduce in rank, retire, dismiss or otherwise punish a transferred employee, as if the employee were not transferred.

5 (4) Where, on the eve of the transfer date, any matter about the conduct of a transferred employee during his or her employment with the transferor —

(a) was in the course of being heard or investigated by a committee of the transferor acting under due authority; or

10 (b) had been heard or investigated by a committee of the transferor acting under due authority but no order, ruling or direction had been made,

15 that committee must complete the hearing or investigation and make such order, ruling or direction as it could have made under the authority vested in it before the transfer date, and that order, ruling or direction is to be regarded as an order, ruling or direction of the Agency.

20 (5) Until such time as conditions of employment are drawn up by the Agency for a transferred employee, the transferred employee is to be regarded as being employed by the Agency on the same conditions of his or her employment with the transferor on the eve of the transfer date.

25 (6) Any condition of employment relating to the length of service with the Agency must recognise the length of service of the employees so transferred while in the employment of the transferor (including any previous service of the employee taken to be service with the transferor) to be service with the Agency.

(7) Nothing in section 46(6) —

30 (a) breaks the continuity of service of the public officer or employee of another public body whose secondment continues with the Agency because of that provision; or

(b) affects any rights, powers or immunities that such a public officer or an employee of a public body has, or the extent to which such public officer or employee (as the case may be) is subject to obligations or liabilities in relation to

discipline, by virtue of holding the office or position to which the public officer or employee is seconded.

Transfer of records

48. On the transfer date, every record, or part of any record, of the transferor that relates to the following becomes the record of the Agency: 5

- (a) any asset or liability transferred to the Agency under section 45;
- (b) any transferring employee.

Confirmation of transfer

49.—(1) If any dispute arises — 10

- (a) as to whether an asset or a liability or a record is transferred under section 45 or 48; or
- (b) as to whether any, or any part of any, contract or document relates to an asset or a liability or a record, transferred 15
under section 45 or 48,

the Minister for Finance may determine the matter and is to provide the concerned parties with written notice of that determination.

(2) The determination of the Minister for Finance under subsection (1) is final and binding on the transferor and the Agency. 20

PART 9

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Amendment to Criminal Law (Temporary Provisions) Act

50. Part I of the First Schedule to the Criminal Law (Temporary Provisions) Act (Cap. 67, 2000 Ed.) is amended by inserting, immediately after item 29, the following item: 25

- “30. Services of a scientific or technological character (including systems development and technological support for operations) provided by the Home Team Science and Technology Agency.”. 30

Saving and transitional provision

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

5

EXPLANATORY STATEMENT

The Bill seeks to establish the Home Team Science and Technology Agency (called the Agency) and to make consequential amendments to certain other Acts.

Part 1 introduces the fundamental concepts used in the Bill.

Part 2 establishes the Agency and sets out its functions and powers.

Part 3 deals with the constitution of the Agency.

Part 4 provides for decision-making by the Agency.

Part 5 deals with personnel matters.

Part 6 sets out the financial provisions of the Agency.

Part 7 contains general powers necessary for the administration of the Bill.

Part 8 contains provisions that transfer the relevant undertakings from the Government to the Agency.

Part 9 makes consequential amendments to other Acts.

PART 1

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 is a general definition provision. It contains definitions of terms used in several Parts of the Bill.

PART 2

ESTABLISHMENT, FUNCTIONS AND POWERS OF AGENCY

Clause 3 establishes the Home Team Science and Technology Agency.

Clause 4 defines the nature and legal capacity of the Agency. The Agency is a body corporate with perpetual succession, and proceedings may be taken by or against the Agency in its corporate name. The Agency may also operate under a trading name approved by the Minister.

Clause 5 describes the functions of the Agency.

Clause 6 provides the Agency with broad powers to do all things necessary or expedient to perform its functions.

Clause 7 provides the Minister with power to give directions of a general nature to the Agency. The clause also provides for the Minister to have access to information in the possession of the Agency.

Clause 8 confers on the Agency the exclusive right to the use of one or more symbols or representations it selects or devises and to display or exhibit those symbols or representations in connection with the Agency's activities or affairs.

PART 3

CONSTITUTION AND MEMBERSHIP OF AGENCY

Clause 9 deals with the membership of the Agency. It is to consist of at least 8, and not more than 20 members. One of those members may be the Chief Executive.

Clause 10 provides for the appointment of Agency members by the Minister charged with the responsibility for the Agency.

Clause 11 provides that in appointing members of the Agency, the Minister must have regard to whether the members of the Agency will collectively possess the appropriate knowledge, skills and experience to assist the Agency to perform its functions effectively.

However, clause 11 does disqualify certain individuals from being members of the Agency.

Clause 12 provides for the appointment and tenure of a Chairperson and Deputy Chairperson from among members appointed.

Clause 13 deals with premature vacancies occurring in the office of any member of the Agency and empowers the Minister to appoint an individual to fill the vacancy and hold that office for the remainder of the term for which the vacating member was appointed.

Clause 14 provides for the appointment of an acting Chairperson and acting members to act temporarily as the Chairperson of the Agency or member (as the case may be) during any period, or during all periods, when the Chairperson or member is absent from duty or Singapore, or is, for any reason, unable to perform the duties of the office.

Clause 15 provides that the Minister has power, at any time and without giving any reason, to remove a member of the Agency from office.

Clause 16 deals with resignation from office by a member of the Agency.

Clause 17 provides that the powers and functions of the Agency are not affected merely because of any vacancy in the membership of the Agency, or of any defect or irregularity about the appointment of a member. The acts of an individual as a member of the Agency are not to be affected merely because there was some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency, or in the case of an individual acting in the capacity of the Chairperson, member or Chief Executive, the occasion for the individual so acting, or for his or her appointment, had not arisen or had ended.

Clause 18 provides that unless earlier vacated, each member of the Agency holds office for a period of 3 years or any shorter period specified in the instrument of appointment, and may be re-appointed.

Clause 19 provides that the members of the Agency may be paid, out of the funds of the Agency, such salaries, fees and allowances as the Minister from time to time determines.

Clause 20 outlines the circumstances in which the office of a member may become vacant.

PART 4

DECISION-MAKING BY AGENCY

Clause 21 provides that the Agency must determine its own meeting procedures to the extent they are not fixed by the Bill or the Public Sector (Governance) Act 2018.

Clause 22 requires notices of meetings of the Agency to be given to all members.

Clause 23 prescribes the quorum to be one-third the number of members.

Clause 24 provides for presiding at meetings.

Clause 25 specifies the process of voting at an Agency meeting. A member present at a meeting of the Agency is presumed to have agreed to, and to have voted in favour of, a resolution of the Agency unless he or she expressly dissents from or votes against the resolution at the meeting or is prevented from voting under section 26 of the Public Sector (Governance) Act 2018. Abstentions are thus impermissible.

Clause 26 provides the process for the execution of documents by the Agency.

Clause 27 empowers the Agency, by resolution, to appoint such number of committees as it thinks fit for purposes which, in the opinion of the Agency, would be better regulated and managed by means of such committees. With the enactment of the clause, section 28 of the Public Sector (Governance) Act 2018 applies.

Clause 28 allows a committee of the Agency to regulate its own procedure, subject to the Public Sector (Governance) Act 2018.

PART 5

PERSONNEL MATTERS

Clause 29 relates to the appointment of the Chief Executive of the Agency, which is also governed by Division 1 of Part 3 of the Public Sector (Governance) Act 2018. The Agency must appoint the Chief Executive with the prior approval of the Minister and the prior concurrence of the Public Service Commission.

Clause 30 provides for the Agency to appoint and employ officers, employees, consultants and agents.

Clause 31 imposes on the members of the Agency, the Chief Executive, officers, agents and committee members of the Agency (collectively called the personnel of the Agency), the duty to preserve secrecy in relation to information obtained in that capacity.

Clause 32 protects the personnel of the Agency from personal liability for anything done in good faith and with reasonable care in the discharge of the functions or exercise of the powers of the Agency.

PART 6

FINANCIAL PROVISIONS

Part 6 of the Bill is to be read with Part 5 of the Public Sector (Governance) Act 2018.

Clause 33 prescribes the financial year of the Agency.

Clause 34 sets out the revenue and property of the Agency.

Clause 35 requires the Agency to open and maintain one or more bank accounts to be operated only by persons duly authorised by the Agency.

Clause 36 further requires the Agency to keep proper accounts and records of its transactions and affairs, and to do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised, and that adequate control is maintained over the property and assets of, or in the custody of, the Agency and over the expenditure incurred by the Agency.

Clause 37 confers on the Agency the standard power of investment of moneys as defined in section 33A of the Interpretation Act (Cap. 1).

Clause 38 requires the Agency to issue shares or other securities to the Minister for Finance where required, as a consequence of the vesting of any property, rights or liabilities in the Agency under the Bill or any capital injection or other investment by the Government in the Agency.

Clause 39 sets out the borrowing powers of the Agency.

PART 7 GENERAL

Clauses 40 and 41 are standard provisions regarding the liability of officers of corporations, unincorporated associations and partnerships which have committed an offence under the Bill.

Clause 42 deals with the service of documents as required or allowed under the Bill.

Clause 43 empowers the Agency, with the Minister's approval, to make regulations about matters that are required or permitted by the Bill or are necessary or convenient to be made for giving effect to the Bill.

PART 8 TRANSFER OF UNDERTAKINGS TO AGENCY

Clause 44 contains definitions used for the purposes of Part 8. In particular, it describes the various undertakings to be transferred to the Agency by Part 8.

Clause 45 provides for the transfer, on the transfer date (which is the operative date of Part 8), to the Agency of all assets and liabilities of the Government relating solely to the functions of the Science and Technology Group of the Ministry of Home Affairs.

Clause 45 also contains a series of saving and transitional provisions, the general purpose of which is to put the Agency in the same legal position as the Government, from which assets or liabilities are transferred.

Clause 45 further declares that the transfer does not constitute a breach of, or default under, an Act or other law, does not constitute a breach of, or default under, a contract, agreement, understanding or undertaking, does not constitute a breach of a duty of confidence, does not constitute a civil or criminal wrong, does not terminate an agreement or obligation, or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy, and does not release a surety or other obligee wholly or in part from an obligation.

Clause 46 provides for the transfer of Government employees to the employment of the Agency on the transfer date. The clause declares that the transfer does not interrupt continuity of service or constitute a retrenchment or redundancy and does not entitle any employee so transferred to any payment or other benefit. The clause also provides for civil servants and public body employees who are seconded to the Science and Technology Group of the Ministry of Home Affairs to continue on secondment to the Agency.

Clause 47 declares that the transfer of employees does not affect remuneration, leave rights or continuity of service.

Clause 48 provides for the transfer of records from the Government to the Agency.

Clause 49 provides for any dispute relating to any transfer to be determined by the Minister for Finance.

PART 9

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

Clause 50 amends the First Schedule to the Criminal Law (Temporary Provisions) Act (Cap. 67) to declare scientific or technological services provided by the Agency to be an essential service.

Clause 51 contains several consequential amendments to other Acts on account of the formation of the Agency.

Clause 52 empowers the Minister charged with the responsibility for the Agency to make regulations prescribing such provisions of a saving or transitional nature consequent on the enactment of any provision in the Bill, as the Minister may consider necessary or expedient. The Minister has power to make such regulations only within 2 years after the date of commencement of the provision.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
