

Arms and Explosives (Amendment) Bill

Bill No. 17/2006.

Read the first time on 8th November 2006.

A BILL

intituled

An Act to amend the Arms and Explosives Act (Chapter 13 of the 2003 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 may be cited as the Arms and Explosives (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of long title

2. The long title to the Arms and Explosives Act (referred to in this Act as the principal Act) is amended by deleting the words “and explosives” and substituting the words “, explosives and explosive precursors”.

Amendment of section 2

10 3. Section 2(1) of the principal Act is amended —

(a) by deleting the definition of “arms” and substituting the following definition:

“ “arms” means —

15 (a) firearms, air-guns, air-pistols, stun guns, electronic dart guns, automatic guns, automatic pistols, guns or any other kind of gun from which any shot, bullet or other missile can be discharged or noxious fumes or noxious substance can be emitted, and any component part of any such arms;

20 (b) bayonets, swords, daggers, spears and spearheads; and

25 (c) such weapon, accessory, or other article or thing, as the Minister may, by notification in the *Gazette*, specify to be arms for the purposes of this Act or any part thereof;”;

(b) by deleting the definition of “authorised person” and substituting the following definitions:

30 “ “authorised person” means any auxiliary police force established under the Police Force Act (Cap. 235) and which is authorised by the Licensing Officer to accept the deposit of guns, arms or explosives under section 19(1) or the deposit of explosive precursors under section 21B(1);

“body corporate” includes a limited liability partnership;

“book” includes any record, register, document or other record of information, however compiled, recorded or stored, whether in written or printed form or on microfilm or in any other electronic form or otherwise;”;

(c) by deleting the word “Schedule” in the 2nd line of the definition of “detection agent” and substituting the words “First Schedule”;

(d) by deleting the words “the Schedule” in the last line of the definition of “detection agent” and substituting the words “that Schedule”;

(e) by inserting, immediately after the definition of “detection agent”, the following definition:

“ “electronic dart gun” means a portable device which —

(a) is powered by electricity and, when switched on, is capable of expelling or projecting a projectile; and

(b) upon coming in contact with a person or an animal, is capable of inflicting injury or an electric shock by a high voltage, low amperage charge to such person or animal;”;

(f) by inserting, immediately after the definition of “explosive”, the following definition:

“ “explosive precursor” means any substance specified in the Second Schedule;”;

(g) by deleting the definition of “manufacture” and substituting the following definitions:

“ “limited liability partnership” has the same meaning given to it by section 4(1) of the Limited Liability Partnerships Act 2005 (Act 5 of 2005);

“manufacture” —

(a) in relation to an explosive, includes the preparation of any component part of the explosive, the admixture or other treatment of the same, and the breaking up or unmaking of any

explosive, the process of remaking or making fit for use any damaged explosive, and the process of remaking, altering or repairing any explosive; and

5 (b) in relation to an explosive precursor, means any process of producing the explosive precursor, and includes the refining or remaking of any substance to become an explosive precursor;”;

(h) by inserting, immediately after the definition of “Port Master”, the following definition:

10 “ “premises” includes messuages, houses, buildings, lands, tenements, easements and hereditaments of any tenure, whether open or closed, whether built or not, whether public or private, and whether maintained under statutory authority or not;”;

15 (i) by inserting, immediately after the definition of “railway administration”, the following definition:

20 “ “stun gun” means a portable device which is powered by electricity and from which any electric current, discharge, impulse, wave or beam can be emitted and if directed at a person or an animal, can incapacitate temporarily, injure or kill the person or animal;”.

Amendment of section 3

4. Section 3(1) of the principal Act is amended —

25 (a) by inserting, immediately after the words “any explosive” in paragraph (a), the words “or explosive precursor”;

(b) by inserting, immediately after the word “explosives” in paragraph (e), the words “, or explosive precursors,”; and

(c) by deleting the words “and explosives” in paragraph (h) and substituting the words “, explosives or explosive precursors”.

30 Repeal of sections 14 and 15

5. Sections 14 and 15 of the principal Act are repealed.

New Parts IIIA and IIIB

6. The principal Act is amended by inserting, immediately after section 21, the following Parts:

“PART IIIA

5

LICENSING OF EXPLOSIVE PRECURSORS

Licences required in respect of explosive precursors

21A.—(1) No person shall, unless authorised thereto by licence, and in accordance with the conditions of the licence and such other conditions as may be prescribed, have in his possession or under his control, import, export, manufacture or deal in any explosive precursor.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of a body corporate, to a fine not exceeding \$100,000; and

(b) in any other case, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

Explosive precursors of which possession has become unlawful to be deposited with authorised person

21B.—(1) Any person whose possession of any explosive precursor has become unlawful in consequence of the expiry, suspension or cancellation of a licence shall, without unnecessary delay, deposit the explosive precursor with such authorised person and at such place as may be specified in the licence or by notice in writing by the Licensing Officer.

(2) If the owner of any explosive precursor so deposited does not, within 6 months from the date of the deposit, produce a licence authorising him to possess the explosive precursor and apply for its delivery, the explosive precursor deposited with an authorised person shall be forfeited to the Government.

Forfeiture of explosive precursors deposited with authorised person or Licensing Officer

5 **21C.** Any explosive precursor deposited with an authorised person or the Licensing Officer in accordance with the provisions of this Act or any other written law for the time being in force shall, if not claimed by its owner or owners within 6 months from the date of the deposit, be forfeited to the Government.

Licensed premises for storage of explosive precursors

10 **21D.**—(1) No person shall store or keep, or cause to be stored or kept, any explosive precursor except —

 (a) in or on premises licensed for the storage or keeping of such explosive precursor and in accordance with the conditions of the licence and such other conditions as may be prescribed; or

15 (b) in any warehouse or store authorised under section 21E.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

 (a) in the case of a body corporate, to a fine not exceeding \$100,000; and

20 (b) in any other case, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

Minister may authorise establishment of warehouses or stores

21E. The Minister may authorise in writing the establishment or use of such warehouses or stores as he considers necessary for —

25 (a) the storage of explosive precursors belonging to the Government; or

 (b) the storage or safe custody of explosive precursors belonging to other persons.

PART IIIB

GENERAL PROVISIONS ON LICENCES

Restrictions on issuing of licences

5 **21F.** Notwithstanding any provision in this Act, the Licensing Officer shall refuse to issue a licence under this Act where he is satisfied that —

- (a) the applicant is not a fit and proper person to hold such a licence; or
- 10 (b) it would be contrary to the public interest for the applicant to be issued with the licence.

Conditions of licences

21G. Every licence issued under this Act shall be deemed to be issued and held subject, in addition to any other condition prescribed or specified in the licence, to the following conditions:

- 15 (a) the licence shall expire after such period as is prescribed;
- (b) the licence shall at any time be liable to suspension or cancellation without any reason being given by the Licensing Officer; and
- 20 (c) the licence shall not be transferable except as provided in this Act.

Appeal

21H. Any person who is dissatisfied with —

- (a) any refusal by the Licensing Officer to issue him a licence under this Act; or
- 25 (b) any suspension or cancellation of his licence issued under this Act,

may within 14 days of the decision appeal in writing to the Minister whose decision shall be final and conclusive.”.

Amendment of section 22

7. The principal Act is amended by renumbering section 22 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

- 5 “(2) Any person who knowingly conceals any explosive precursor imported unlawfully or without a licence shall be guilty of an offence and shall be liable on conviction —
- (a) in the case of a body corporate, to a fine not exceeding \$100,000; and
- 10 (b) in any other case, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.”.

Amendment of section 27

8. Section 27 of the principal Act is amended —

- 15 (a) by deleting the words “or explosives” wherever they appear in subsections (1) and (2) and substituting in each case the words “, explosives or explosive precursors”;
- (b) by deleting the words “house or” wherever they appear in subsection (1)(i); and
- (c) by deleting the words “in the house or” in subsection (1)(iii).

Amendment of section 28

9. Section 28 of the principal Act is amended by inserting, immediately after the word “explosives” wherever it appears in subsections (1) and (2), the words “, explosive precursors”.

Amendment of section 29

- 25 10. Section 29(1) of the principal Act is amended by inserting, immediately after the word “explosives” in paragraph (d), the words “, explosive precursors”.

Amendment of section 30

- 30 11. Section 30(1) of the principal Act is amended by deleting the words “or explosives” and substituting the words “, explosives or explosive precursors”.

Amendment of section 31

12. Section 31 of the principal Act is amended by inserting, immediately after the word “explosive”, the words “ or explosive precursor”.

Amendment of section 32

5 13. Section 32 of the principal Act is amended by inserting “21A, 21D,” immediately after “13,”.

Amendment of section 34

10 14. Section 34 of the principal Act is amended by deleting the words “or explosives” wherever they appear (including section heading) and substituting in each case the words “, explosives or explosive precursors”.

Amendment of section 35

15 15. Section 35 of the principal Act is amended by deleting the words “or explosives” wherever they appear and substituting in each case the words “, explosives or explosive precursors”.

Amendment of section 36

16. Section 36(1) of the principal Act is amended by inserting, immediately after the words “an explosive” wherever they appear in paragraphs (a) and (b), the words “or explosive precursor”.

Repeal and re-enactment of section 39

20 17. Section 39 of the principal Act is repealed and the following section substituted therefor:

“Jurisdiction of court

25 39. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.”.

New sections 44A and 44B

18. The principal Act is amended by inserting, immediately after section 44, the following sections:

“Offences by bodies corporate, etc.

44A.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief

executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) 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, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

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

(6) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

General exemption power

44B. The Minister may, by order published in the *Gazette*, exempt any person or premises, or any class or description of persons or premises, from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.”.

Amendment of section 45

19. Section 45 of the principal Act is amended —

(a) by deleting the words “the Schedule” and substituting the words “the First or Second Schedule”; and

(b) by deleting the word “Schedule” in the section heading and substituting the word “Schedules”.

Amendment of section 46

20. Section 46 of the principal Act is amended —

(a) by inserting, immediately after paragraph (g) of subsection (1), the following paragraph:

“(ga) to regulate or prohibit, except under or in accordance with the conditions of a licence, the manufacture,

dealing in, use, storage, transportation, importation, exportation, possession and purchase of explosive precursors;”;

(b) by deleting sub-paragraph (i) of subsection (1)(r) and substituting the following sub-paragraph:

“(i) to enter, inspect and examine any place, carriage, vessel or aircraft in which an explosive or explosive precursor is being manufactured, possessed, stored or kept, used, dealt in, transported, imported or exported under a licence issued under this Act, or in which he has reason to believe that an explosive or explosive precursor has been or is being manufactured, possessed, stored or kept, used, dealt in, transported, imported or exported in contravention of this Act;”;

(c) by inserting, immediately after the word “explosives” in subsection (1)(r)(ii), the words “or explosive precursors”;

(d) by inserting, immediately after the word “explosive” in subsection (1)(r)(iii) and (iv), the words “or explosive precursor”; and

(e) by deleting subsection (2) and substituting the following subsection:

“(2) The Minister may, in making any rules —

(a) provide that a contravention of any specified provision thereof shall be an offence; and

(b) provide for penalties not exceeding a fine of \$100,000 or imprisonment for a term not exceeding 2 years or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of \$10,000 for every day or part thereof during which the offence continues.”.

Renaming of Schedule and new Second Schedule

21. The Schedule to the principal Act is amended by deleting the words “THE SCHEDULE” in the heading and substituting the words “FIRST SCHEDULE”, and by inserting immediately thereafter the following Schedule:

“SECOND SCHEDULE

Sections 2(1) and 45

EXPLOSIVE PRECURSORS

- 5 1. Ammonium nitrate, or any mixture of components one of which is ammonium nitrate, but not including —
 - (a) aqueous solutions containing less than 60%, weight in weight, of ammonium nitrate; or
 - 10 (b) any material in solid form comprising a mixture of components, one of which is ammonium nitrate, where the nitrogen content derived from ammonium nitrate is less than 28% by weight of the said mixture.
2. Ammonium perchlorate.
3. Barium nitrate, not including preparations and solutions containing less than 10%, weight in weight, of barium nitrate.
- 15 4. Guanidine nitrate.
5. Hydrogen peroxide, not including preparations and solutions containing not more than 20%, weight in weight, of hydrogen peroxide.
6. Potassium chlorate.
- 20 7. Potassium nitrate, not including preparations and solutions containing less than 5%, weight in weight, of potassium nitrate or a combination of both potassium nitrate and sodium nitrate.
8. Potassium nitrite, not including aqueous solutions containing less than 5%, weight in weight, of potassium nitrite.
9. Potassium perchlorate.
- 25 10. Sodium chlorate.
11. Sodium nitrate, not including preparations and solutions containing less than 5%, weight in weight, of sodium nitrate or a combination of both sodium nitrate and potassium nitrate.
- 30 12. Sodium nitrite, not including aqueous solutions containing less than 5%, weight in weight, of sodium nitrite.
13. Sodium perchlorate.
14. Perchloric acid.
15. Tetranitromethane.”

Transitional and savings provisions

22.—(1) Subject to subsections (3) and (4), any person who, immediately before the date of commencement of this Act, has in his possession or under his control any explosive precursor shall be deemed
5 to hold a licence under this Act for the possession or control of such explosive precursor, respectively —

(a) for a period of 6 months from that date; or

(b) where an application for such a licence is made within 3 months from that date, until the date on which the licence is issued or the
10 application is refused or withdrawn,

whichever is the later.

(2) Subject to subsections (3) and (4), any person who, immediately before the date of commencement of this Act, imports, exports, manufactures or deals in any explosive precursor shall be deemed to hold
15 a licence under this Act to import, export, manufacture or deal in any explosive precursor, respectively —

(a) for a period of 6 months from that date; or

(b) where an application for such a licence is made within 3 months from that date, until the date on which the licence is issued or the
20 application is refused or withdrawn,

whichever is the later.

(3) Any person who holds a licence under the Environmental Pollution Control Act (Cap. 94A) for the import or export of any explosive precursor shall be deemed to hold a licence under this Act to import or
25 export any explosive precursor, respectively.

(4) Any person who holds a licence under the Environmental Pollution Control Act for the possession for sale, sale or offer for sale of any explosive precursor shall be deemed to hold a licence under this Act to deal in any explosive precursor.

30 (5) The conditions of the licence first-mentioned in subsection (3) or (4) shall, to the extent that they are consistent with the provisions of this Act, be deemed to be conditions of the licence second-mentioned in that subsection.

EXPLANATORY STATEMENT

This Bill seeks to amend the Arms and Explosives Act (Cap. 13) principally to extend the Act to regulate the possession, control, import, export, manufacture, dealing in, storage and keeping of explosive precursors, which can be used to make explosives.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to reflect the extension of the Act for the regulation of explosive precursors.

Clause 3 amends the existing definitions of “arms”, “authorised person” and “manufacture” in section 2(1), and inserts new definitions necessitated by the amendments contained in the Bill.

Clause 4 amends section 3(1) to provide for certain exemptions in relation to explosive precursors for the benefit of the Government and governments of Commonwealth countries.

Clause 5 repeals sections 14 and 15 which are re-enacted as new sections 21G and 21H, respectively, under a new Part IIIB on general provisions on licences (inserted by clause 6).

Clause 6 inserts a new Part IIIA (comprising new sections 21A to 21E) to provide for the regulation of explosives precursors, and a new Part IIIB (comprising new sections 21F, 21G and 21H) to set out the provisions that apply generally to licences issued under the Act.

The new section 21A prohibits the possession, storage, importation, exportation, manufacture of or dealing in any explosive precursor unless the person is authorised by a licence.

The new section 21B requires persons whose possession of explosive precursors has become unlawful to deposit them with an authorised person. If the owner fails to produce a licence to possess them within 6 months from the date of the deposit, the explosive precursors will be forfeited to the Government.

The new section 21C provides for any explosive precursor which is deposited with an authorised officer or the Licensing Officer, and which is not claimed by the owners within 6 months from the date of the deposit, to be forfeited to the Government.

The new section 21D prohibits the use of any premises (other than warehouses and stores authorised under the new section 21E) for the storage and safe custody of any explosive precursor unless the premises are licensed under the Act.

The new section 21E empowers the Minister to authorise the establishment and use of warehouses or stores for the safe custody of explosives precursors belonging to the Government or to other persons.

The new section 21F makes it clear that the Licensing Officer is empowered to refuse to issue a licence under the Act in the circumstances specified therein.

The new section 21G re-enacts section 14 to prescribe certain conditions to which every licence issued under the Act is deemed to be subject.

The new section 21H re-enacts section 15 and provides a person who is dissatisfied with any refusal by the Licensing Officer to issue him a licence, or any suspension or cancellation of his licence, the right to appeal to the Minister.

Clause 7 amends section 22 to make it an offence for any person to conceal any explosive precursor which is imported unlawfully or without a licence.

Clause 8 deletes the references to “house” which appear alongside the term “premises” in section 27(1). This is a consequential amendment arising from the insertion of the definition of “premises” in section 2(1) (by clause 3). The clause also extends the section to empower the search for and seizure of explosive precursors in the prescribed situations.

Clause 9 amends section 28 to empower the Licensing Officer to authorise any police officer to conduct searches and inspections in relation to explosive precursors.

Clause 10 extends section 29(1) to empower the search of any vessel or aircraft which is in or about to leave any port or airport in Singapore and which is suspected of having explosive precursors on board for which no licence for export has been issued.

Clause 11 extends section 30(1) to empower the apprehension of persons found carrying or conveying any explosive precursor.

Clause 12 amends section 31 to empower the arrest of any person who is found committing any dangerous act which tends to cause explosion or fire in any place where explosive precursors are manufactured or stored.

Clause 13 amends section 32 to insert references to new sections 21A and 21D (inserted by clause 6) so as to empower any police officer to arrest without warrant any person who is found committing or attempting to commit, employing, aiding or assisting any person to commit any of the offences under the new sections.

Clause 14 extends section 34 to empower police officers to stop and search any person in any public place who is suspected of having in his possession explosive precursors.

Clause 15 extends the presumption of possession in section 35 in relation to the possession to explosive precursors.

Clause 16 extends section 36(1) to require the reporting of any accident involving explosive precursors, which results in the loss of human life or serious injury to person or damage to property, to the officer in charge of the nearest police station without delay.

Clause 17 repeals and re-enacts section 39 to provide the District Courts with jurisdiction to hear and determine all prosecutions for offences under the Act, and to impose the full penalty or punishment prescribed under the Act, notwithstanding the provisions of the Criminal Procedure Code (Cap. 68).

Clause 18 inserts new sections 44A and 44B.

The new section 44A provides for the liability of officers or members where an offence is committed by a body corporate or an unincorporated association.

The new section 44B empowers the Minister to grant exemptions to any person or premises, or any class or description of persons or premises, from all or any of the provisions of the Act.

Clause 19 amends section 45 to empower the Minister to amend the new Second Schedule (inserted by clause 21) by order published in the *Gazette*.

Clause 20 amends section 46 to empower the Minister to make rules —

- (a) to regulate or prohibit the manufacture, dealing in, use, sale, storage, transportation, importation, exportation, possession and purchase of explosive precursors in accordance with the conditions of a licence; and
- (b) to empower any officer to enter, inspect and examine any place, carriage, vessel or aircraft in which an explosive or explosive precursor is being manufactured, possessed, stored or kept, used, dealt in, transported or imported or exported under a licence issued under the Act, or in which he has reason to believe that an explosive or explosive precursor has been or is being manufactured, stored or kept, possessed, used, dealt in, transported, imported or exported in contravention of the Act, and to search, take samples of or seize or destroy, any explosive precursor found therein.

The clause further amends section 46(2) to increase the maximum penalties that may be prescribed for the contravention of any of the rules made under the section.

Clause 21 inserts a new Second Schedule to specify the explosive precursors that are to be regulated by the Act.

Clause 22 sets out the transitional and savings provisions arising from the extension of the ambit of the Act to the regulation of explosive precursors.

EXPENDITURE OF PUBLIC MONEY

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