

Ngee Ann Kongsı (Incorporation) (Amendment) Bill

Bill No. 25/2007.

Read the first time on 21st May 2007.

A BILL

intituled

An Act to amend the Ngee Ann Kongsı (Incorporation) Ordinance
(Chapter 370 of the 1985 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 Ngee Ann Kongsi (Incorporation) (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 6

2. Section 6 of the Ngee Ann Kongsi (Incorporation) Ordinance (referred to in this Act as the principal Act) is amended —

- (a) by inserting, immediately after the words “Eight Districts” in the last line of paragraph (d), the words “or by any person”; and
- 10 (b) by inserting, immediately after the words “Eight Districts” in paragraph (f), the words “, or any community in Singapore,”.

Amendment of section 7

3. Section 7 of the principal Act is amended —

- 15 (a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

“(1) The affairs of the Corporation shall be managed by a Committee of Management.

- 20 (2) Each of the following persons shall *ex-officio* be and be entitled to act as a member of the Committee of Management (referred to in this Act as an *ex-officio* member) if he is eligible for membership of the Corporation, whether or not he is a member of the Corporation:

- 25 (a) every Chinese Member of Parliament who is a Teochew;
- (b) a representative of the Singapore Chinese Chamber of Commerce and Industry who is a Teochew and is the President or a Vice-President of the Singapore Chinese Chamber of Commerce and Industry;
- 30 (c) a representative of the Singapore Teochew Poit Ip Huay Kuan who is the President or a Vice-President of the Singapore Teochew Poit Ip Huay Kuan; and
- (d) a representative of the family of the late Seah Eu Chin who is nominated by his descendants.

(3) The members of the Committee of Management (other than the *ex-officio* members and the first members of the Committee of Management referred to in section 8) shall comprise —

5 (a) 20 persons elected from the members of the Corporation (each referred to in this Act as an elected member); and

(b) not more than 5 persons co-opted by the Committee of Management from the members of the Corporation (each referred to in this Act as a co-opted member).”;

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(b) by deleting subsection (5) and substituting the following subsections:

“(5) If any person entitled to act as an *ex-officio* member ceases to hold the public appointment or appointments specified in subsection (2) entitling him so to act —

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(a) he shall cease to be a member of the Committee of Management; and

(b) any vacancy in the Committee of Management thereby created may be filled by another person who holds that public appointment, is eligible for membership of the Corporation and is elected by the Committee of Management.

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(5A) If any person entitled to act as an *ex-officio* member is unable or refuses to accept appointment or to act as an *ex-officio* member —

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(a) he shall cease to be a member of the Committee of Management, notwithstanding that he may continue to hold any public appointment specified in subsection (2); and

(b) any vacancy in the Committee of Management thereby created may be filled by another person who holds that public appointment, is eligible for membership of the Corporation and is elected by the Committee of Management.”;

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(c) by deleting subsection (6) and substituting the following subsections:

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“(6) Every elected member of the Committee of Management —

(a) shall retire from office at the second Annual General Meeting of the Corporation held next after he became a member of the Committee of Management; but

(b) shall be eligible for re-election, or to be co-opted by the Committee of Management appointed, at the Annual General Meeting of the Corporation at which he retires.

(6A) Every co-opted member of the Committee of Management —

(a) shall retire from office at the Annual General Meeting of the Corporation at which the elected members of the Committee of Management which co-opted him retire from office under subsection (6)(a); but

(b) shall be eligible for election, or to be co-opted by the Committee of Management appointed, at the Annual General Meeting of the Corporation at which he retires.”; and

(d) by deleting the word “If” in the 1st line of subsection (9) and substituting the words “Subject to subsections (5) and (5A), if”.

Amendment of section 9

4. Section 9 of the principal Act is amended by deleting subsection (5).

New sections 9A and 9B

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

“Honorary Past Presidents

9A.—(1) The Committee of Management may appoint one or more Honorary Past Presidents to serve as advisers to the Committee of Management.

(2) No person shall be eligible for appointment as an Honorary Past President unless he is —

(a) a member of the Corporation; and

(b) a former President of the Corporation.

(3) The term of office of an Honorary Past President shall end on the date on which the members of the Committee of Management (other than *ex-officio* members) which appointed him retire from office under section 7(6)(a) and (6A)(a).

(4) Every person who has been appointed as an Honorary Past President shall be eligible for reappointment.

Publication and advertisement of appointments

9B. The particulars of every appointment of an officer of the Corporation, a member of the Committee of Management, or an Honorary Past President, including the name, address and occupation of the person appointed, the date of the appointment, and the office to which the person was appointed, shall be —

(a) published in the *Gazette* within 21 days after the date of the appointment; and

(b) advertised in at least 2 issues of one Chinese daily newspaper circulating in Singapore.”.

Amendment of section 14

6. Section 14 of the principal Act is amended by deleting subsections (2) and (3) and substituting the following subsections:

“(2) The Committee of Management shall serve a written notice of every General Meeting not less than 7 clear days before the day on which the General Meeting is to be held.

(3) The notice under subsection (2) shall be served on every member of the Corporation, and on every *ex-officio* member (not being a member of the Corporation), who has provided to the Corporation an address for service —

(a) personally;

(b) by post addressed to him at his address for service; or

(c) by delivering the notice to his address for service.

(4) Where the notice under subsection (2) is sent by post, it shall be deemed to be served at the time when the notice would, in the ordinary course of post, be delivered.

(5) In proving service of the notice under subsection (2) by post, it shall be sufficient to prove that the cover containing the notice was properly addressed, stamped and posted.

(6) Notwithstanding subsections (2) and (3), the proceedings at a General Meeting are not invalidated by reason only of —

- (a) any accidental omission to give the notice under subsection (2) to any person; or
- (b) the non-receipt by any person of the notice under subsection (2).

(7) The Committee of Management shall cause a notice of every General Meeting to be advertised in one Chinese daily newspaper circulating in Singapore not less than 7 clear days before the day on which the General Meeting is to be held.

(8) The notice under subsection (7) shall specify —

- (a) the date, time and place of the General Meeting;
- (b) the general nature of the business to be transacted at the General Meeting; and
- (c) in the case of any special business, concise particulars of that business.”.

Amendment of section 16

7. Section 16 of the principal Act is amended by deleting subsection (1) and substituting the following subsections:

“(1) Subject to subsection (1A), 20 members of the Corporation shall form a quorum at any General Meeting.

(1A) If, after 30 minutes from the time appointed for a General Meeting, there are fewer than 20 members of the Corporation present at the place of the General Meeting, any 10 or more members of the Corporation present at that place shall form a quorum for the General Meeting.”.

New section 16A

8. The principal Act is amended by inserting, immediately after section 16, the following section:

“Amendment of Ordinance

5 **16A.** The Committee of Management shall not propose any amendment to this Ordinance without the prior approval of a majority of the members of the Corporation present at a General Meeting.”.

Amendment of section 20

10 **9.** Section 20 of the principal Act is amended by deleting the marginal note and inserting the following section heading:

“Immovable property of Corporation”.

Repeal and re-enactment of section 20A and new section 20B

10. Section 20A of the principal Act is repealed and the following sections substituted therefor:

15 **“Moneys received by Corporation**

20A.—(1) The Committee of Management shall, in each accounting period of the Corporation, set apart 75 per cent of the net income of the Corporation in that accounting period, and shall, by the end of the next accounting period, donate —

- 20 (a) 25 per cent of the net income to the Ngee Ann Polytechnic constituted under the Ngee Ann Polytechnic Act (Cap. 207);
- (b) 40 per cent of the net income to such other educational institutions and in such manner as the Minister may approve; and
- 25 (c) 10 per cent of the net income to other charitable purposes in Singapore.

(2) For the purposes of subsection (1), the net income of the Corporation in any accounting period of the Corporation shall be the amount determined in accordance with the following formula:

$$A - B + C,$$

where A is the amount of all moneys received by the Corporation in that accounting period by way of income from any source other than —

(a) the sale, disposition or compulsory acquisition of any relevant asset or immovable property belonging to the Corporation; and

(b) the withdrawal of any relevant deposit belonging to the Corporation;

B is the amount which is the total of —

(a) all operating expenses reasonably incurred by the Corporation during that accounting period; and

(b) any depreciation in the value of the fixed assets of the Corporation during that accounting period; and

C is the amount of all moneys received by the Corporation, whether by way of income or otherwise, in the accounting period immediately preceding that accounting period from —

(a) the sale, disposition or compulsory acquisition of any relevant asset or immovable property belonging to the Corporation; and

(b) the withdrawal of any relevant deposit belonging to the Corporation,

which at the end of the accounting period second-mentioned in this definition were not utilised for the purchase of any relevant asset or immovable property, or the making of any relevant deposit, by the Corporation.

(3) Subject to subsections (1) and (2), no moneys received by the Corporation, whether by way of income or otherwise, from —

(a) the sale, disposition or compulsory acquisition of any relevant asset or immovable property belonging to the Corporation; or

(b) the withdrawal of any relevant deposit belonging to the Corporation,

shall be utilised otherwise than for the purchase of any relevant asset or immovable property, or the making of any relevant deposit, by the Corporation.

(4) All moneys received by the Corporation, whether by way of income or otherwise, shall, as soon as practicable, be deposited in a relevant bank account pending the utilisation of those moneys.

(5) Subject to subsections (1), (2) and (3), no moneys deposited in any relevant bank account shall be utilised otherwise than for —

(a) the purchase of any relevant asset or immovable property, or the making of any relevant deposit, by the Corporation;

(b) the payment of any operating expenses reasonably incurred by the Corporation;

(c) the making of any donation referred to in subsection (1); or

(d) the making of any donation for any purpose consistent with the objects and general purposes of the Corporation referred to in section 6.

(6) The Minister, or any person authorised by the Minister, may require the Honorary Treasurer or the Committee of Management to furnish him with —

(a) all accounting and other records relating, directly or indirectly, to the financial transactions of the Corporation; and

(b) such other information in the possession of the Honorary Treasurer or the Committee of Management, or to which the Honorary Treasurer or the Committee of Management has access,

as he considers necessary for ascertaining whether subsections (1), (3), (4) and (5) have been complied with, and the Honorary Treasurer or Committee of Management, as the case may be, shall comply with that requirement.

(7) The Minister may institute such proceedings as he considers necessary for ensuring compliance with this section and section 20B.

(8) In this section —

“charitable purposes” has the same meaning as in section 2(1) of the Charities Act (Cap. 37);

“Minister” means the Minister charged with the responsibility for education;

“relevant asset” means any asset held or to be held for the purposes of investment;

“relevant bank account” means any bank account maintained and operated by the Corporation in the ordinary course of business for the purpose of depositing moneys received by the Corporation pending the utilisation of those moneys;

“relevant deposit” means any deposit made or to be made, as an investment, with —

(a) any bank licensed under the Banking Act (Cap. 19);

(b) any finance company licensed under the Finance Companies Act (Cap. 108); or

(c) any merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186),

but does not include any deposit in any relevant bank account.

Subsidiaries of Corporation

20B.—(1) The Corporation shall not act in any manner which is prejudicial to the interests of the educational institutions referred to in section 20A(1)(a) and (b) when exercising the voting rights attached to its shares in any of its subsidiaries in relation to any significant proposal affecting the subsidiary concerned.

(2) Where the Corporation contravenes subsection (1) in relation to any significant proposal affecting any subsidiary of the Corporation, any resolution passed in relation to the significant proposal at a general meeting of the subsidiary, and anything done pursuant to any such resolution, shall be invalid and of no effect.

(3) Notwithstanding section 157 of the Companies Act (Cap. 50), a relevant director of any subsidiary of the Corporation shall not act in any manner which is prejudicial to the interests of the educational institutions referred to in section 20A(1)(a) and (b) when exercising his voting rights as a director of the subsidiary in relation to any significant proposal affecting the subsidiary.

(4) Where any relevant director of any subsidiary of the Corporation contravenes subsection (3) in relation to any significant proposal affecting the subsidiary, any resolution passed in relation to the significant proposal by the board of directors of the subsidiary, and anything done pursuant to any such resolution, shall be invalid and of no effect.

(5) A relevant director of any subsidiary of the Corporation does not —

(a) commit any breach of any provision of section 157 of the Companies Act; or

(b) breach any duty under any other written law or rule of law relating to the duty or liability of directors or officers of a company,

merely because he has complied with subsection (3).

(6) In this section —

“relevant director”, in relation to any subsidiary of the Corporation, means —

(a) any director of the subsidiary who is appointed, nominated or proposed by the Corporation or the Committee of Management;

(b) any director of the subsidiary who is a member of, or whose appointment as a director follows necessarily from his being a member of, the Committee of Management, regardless of whether he was appointed, nominated or proposed by the Corporation or the Committee of Management;

(c) any director of the subsidiary who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the Corporation or the Committee of Management,

regardless of whether he was appointed, nominated or proposed by the Corporation or the Committee of Management;

5 (d) any director of the subsidiary appointed by the board of directors of the subsidiary who was nominated or proposed by any director of the subsidiary referred to in this paragraph or paragraph (a), (b) or (c); and

10 (e) any alternate director of the subsidiary appointed by any director of the subsidiary referred to in paragraph (a), (b), (c) or (d);

“significant proposal”, in relation to any subsidiary of the Corporation, means —

(a) a proposal to dispose of the whole or substantially the whole of the undertaking or property of the subsidiary;

15 (b) a proposal to voluntarily wind-up the subsidiary;

(c) a proposal to add, delete or alter any provision of the memorandum or articles of association of the subsidiary; or

20 (d) a proposal to appoint, remove or replace any director of the subsidiary.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Ngee Ann Kongsı (Incorporation) Ordinance (Cap. 370) for the following main purposes:

- (a) to alter the composition of the Committee of Management of the Corporation (clause 3);
- (b) to provide for the appointment of Honorary Past Presidents to serve as advisers to the Committee of Management (clause 5);
- (c) to restate certain procedural matters relating to General Meetings of the Corporation (clauses 6 and 7);
- (d) to prohibit the Committee of Management from proposing any amendment to the Ordinance without the prior approval of the members of the Corporation at a General Meeting (clause 8);

- (e) to provide for the Committee of Management to set apart 75 per cent of the net income of the Corporation in each accounting period of the Corporation, and to donate 25 per cent of the net income to the Ngee Ann Polytechnic, 40 per cent of the net income to such other educational institutions and in such manner as the Minister may approve, and 10 per cent of the net income to other charitable purposes in Singapore, and to restrict how moneys received by the Corporation may be utilised, so as to preserve the capital of the Corporation (clause 10); and
- (f) to prohibit the Corporation and certain directors of subsidiaries of the Corporation from acting in any manner which is prejudicial to the interests of the educational institutions which benefit from the donations when exercising their voting rights in relation to significant proposals affecting subsidiaries of the Corporation (clause 10).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 6(d) and (f) to extend the objects and general purposes of the Corporation, so that those objects and general purposes will be consistent with the new section 20A(1) (inserted by clause 10).

Clause 3 amends section 7 —

- (a) to alter the composition of the Committee of Management of the Corporation, so that it will comprise 20 persons elected from the members of the Corporation, not more than 5 persons co-opted by the Committee of Management from the members of the Corporation and, in addition, every person who is entitled to act as an *ex-officio* member of the Committee of Management;
- (b) to update the list of persons who are entitled to act as *ex-officio* members;
- (c) to restate how a vacancy left by an *ex-officio* member is to be filled; and
- (d) to provide for the retirement of members of the Committee of Management who are elected or co-opted from the members of the Corporation, and for their eligibility to be re-elected, elected or co-opted, as the case may be.

Clause 4 deletes subsection (5) of section 9 as a consequence of the introduction of the new section 9B (by clause 5).

Clause 5 introduces new sections 9A and 9B.

The new section 9A provides for the Committee of Management to appoint one or more Honorary Past Presidents to serve as advisers to the Committee of Management. A person is eligible for appointment as an Honorary Past President if he is a member of the Corporation and a former President of the Corporation.

The new section 9B provides for the particulars of every appointment of an officer of the Corporation, a member of the Committee of Management or an Honorary Past President to be published in the *Gazette* and advertised in at least 2 issues of one Chinese daily newspaper circulating in Singapore.

Clause 6 amends section 14 to restate how the Committee of Management is to serve and to advertise a notice of a General Meeting of the Corporation.

Clause 7 amends section 16 to restate how a quorum for a General Meeting is to be formed.

Clause 8 introduces a new section 16A to prohibit the Committee of Management from proposing any amendment to the Ordinance without the prior approval of a majority of the members of the Corporation present at a General Meeting.

Clause 9 deletes the marginal note of section 20 and inserts a different section heading, as the present marginal note is descriptive not only of the matters under that section but also of the matters under the new sections 20A and 20B (inserted by clause 10).

Clause 10 repeals and re-enacts section 20A and introduces a new section 20B.

The new section 20A(1) provides for the Committee of Management to set apart 75 per cent of the net income of the Corporation in each accounting period of the Corporation, and to donate, by the end of the next accounting period of the Corporation, 25 per cent of the net income to the Ngee Ann Polytechnic, 40 per cent of the net income to such other educational institutions and in such manner as the Minister charged with the responsibility for education may approve, and 10 per cent of the net income to other charitable purposes in Singapore.

The new section 20A(2) states how the net income of the Corporation in any accounting period is to be computed for the purposes of the new section 20A(1).

The new section 20A(3) prohibits the utilisation of moneys received by the Corporation from the sale, disposition or compulsory acquisition of certain assets or immovable property belonging to the Corporation, or from the withdrawal of certain deposits belonging to the Corporation, otherwise than for the purchase of such assets or immovable property, or the making of such deposits, by the Corporation, or for the making of donations in accordance with the new section 20A(1).

The new section 20A(4) requires all moneys received by the Corporation to be deposited, as soon as practicable, in certain bank accounts maintained and operated by the Corporation in the ordinary course of business. The new section 20A(5) prohibits the utilisation of moneys deposited into such bank accounts otherwise than for —

- (a) the purchase of certain assets or immovable property, or the making of certain deposits, by the Corporation;
- (b) the payment of any operating expenses reasonably incurred by the Corporation;
- (c) the making of any donation referred to in the new section 20A(1); or
- (d) the making of any donation for any purpose consistent with the objects and general purposes of the Corporation referred to in section 6.

These provisions and the new section 20A(3) collectively restrict how moneys received by the Corporation may be utilised, so as to preserve the capital of the Corporation.

The new section 20A(6) empowers the Minister charged with the responsibility for education, or any person authorised by the Minister, to require the Honorary Treasurer or the Committee of Management of the Corporation to furnish him with records relating to the financial transactions of the Corporation and such other information as he considers necessary for ascertaining whether subsections (1), (3), (4) and (5) of the new section 20A have been complied with.

The new section 20A(7) empowers the Minister charged with the responsibility for education to institute such proceedings as he considers necessary for ensuring compliance with the new sections 20A and 20B.

The new section 20A(8) defines certain terms used in the new section 20A.

The new section 20B prohibits the Corporation from acting in any manner which is prejudicial to the interests of the educational institutions referred to in the new section 20A(1)(a) and (b), when exercising the voting rights attached to its shares in any of its subsidiaries in relation to any significant proposal affecting the subsidiary concerned. The section also prohibits certain directors of any subsidiary of the Corporation from acting in any manner which is prejudicial to the interests of the educational institutions referred to in the new section 20A(1)(a) and (b), when exercising their voting rights as directors of the subsidiary in relation to any significant proposal affecting the subsidiary. When either of these requirements is contravened in relation to any significant proposal affecting any subsidiary of the Corporation, any resolution passed in relation to the significant proposal, and anything done pursuant to any such resolution, will be invalid and of no effect.

EXPENDITURE OF PUBLIC MONEY

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