

# **Preservation of Monuments Bill**

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**Bill No. 9/2009.**

*Read the first time on 23rd March 2009.*

## **PRESERVATION OF MONUMENTS ACT 2009**

**(No.     of 2009)**

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A BILL

*i n t i t u l e d*

An Act to provide for the preservation and protection of national monuments by the National Heritage Board and for matters connected therewith, to repeal the Preservation of Monuments Act (Chapter 239 of the 1985 Revised Edition) and to make related amendments to the National Heritage Board Act (Chapter 196A of the 1994 Revised Edition) and consequential amendments to certain other written laws.

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

## PART I

## PRELIMINARY

**Short title and commencement**

5     **1.** This Act may be cited as the Preservation of Monuments Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

**Interpretation**

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

“appointed day” means the date of commencement of this Act;

10     “Board” means the National Heritage Board established under the National Heritage Board Act (Cap. 196A);

“Director” means the Director of National Monuments appointed under section 8;

15     “enforcement notice” means a notice issued by the Board under section 18;

“information notice” means a notice served by the Director or a Monument Inspector under section 16;

“monument” means the whole or any part of, or the remains of —

20     (a) any building, structure, erection, statue, sculpture or other work, whether above or below the surface of the land, and any cave or excavation;

   (b) any site comprising the remains of any such building, structure, erection, statue, sculpture or other work or of any cave or excavation; or

25     (c) any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof which neither constitutes nor forms part of any work which is a monument within paragraph (a),

30     and includes any machinery attached to or forming part of a monument which cannot be detached from the monument without being dismantled;

“Monument Inspector” means any person appointed under section 9 to be a Monument Inspector for the purposes of this Act;

“national monument” means any monument that is subject to a preservation order and includes any land containing or adjacent to such monument that is specified in the preservation order under section 11(3);

“occupier”, in relation to any monument or land, means the person in occupation of, or having the charge, management or control of, such monument or land, whether on his own account or as an agent of another person, but does not include a lodger;

“owner” —

(a) in relation to any monument or land, means the person for the time being receiving the rent of the monument or land whether on his own account or as agent or trustee or as receiver, or who would receive the same if the monument or land were let to a tenant, and the person whose name is entered in the Valuation List prepared under section 10 of the Property Tax Act (Cap. 254) as the owner of the monument or land; and

(b) in relation to the common property of any subdivided building, means the person receiving any rent or charge for the maintenance of that common property;

“preservation notice” means a notice issued by the Board under section 13;

“preservation order” means an order made by the Minister under section 11 placing a monument under the protection of the Board.

## PART II

### FUNCTIONS AND POWERS OF BOARD UNDER THIS ACT

#### **Board to administer Act**

**3.** The Board shall be responsible for the administration and enforcement of this Act.

### **Functions of Board under this Act**

4. Without prejudice to section 6 of the National Heritage Board Act (Cap. 196A), the functions of the Board under this Act shall be —

- 5 (a) to identify monuments that are of such historic, cultural, traditional, archaeological, architectural, artistic or symbolic significance and national importance as to be worthy of preservation under this Act, and to make recommendations to the Minister for the preservation under this Act of the monuments so identified;
- 10 (b) to undertake, commission, sponsor or facilitate research on monuments which have been identified for preservation or which are being preserved under this Act;
- 15 (c) to determine standards and issue guidelines for the restoration and preservation of monuments under this Act and for the proper control, management and use of such monuments;
- (d) to determine the best method for the preservation of any national monument, and to cause or facilitate the preservation of such national monument in accordance with such method;
- (e) to protect national monuments in accordance with this Act;
- 20 (f) to promote and stimulate public interest and support in the preservation of monuments, and public knowledge, appreciation and understanding of national monuments;
- (g) to record, preserve and disseminate information relating to national monuments; and
- 25 (h) to advise the Government in respect of matters relating to the preservation of monuments.

### **Powers of Board under this Act**

5. Without prejudice to section 7 of the National Heritage Board Act, the Board, in discharging its functions under this Act, shall have and may exercise the following powers:

- 30 (a) advise on, supervise, control and require alterations, repairs, renovations or construction of any kind to be made to any national monument for the purpose of ensuring the better preservation thereof;

- (b) contribute by grant or loan towards the expenses incurred or to be incurred in the restoration, repair, maintenance or management of a national monument to ensure its proper preservation;
- 5 (c) publish or sponsor the publication of information and other works relating to monuments which have been identified for preservation or which are being preserved under this Act, or to any other matter concerning the functions of the Board;
- 10 (d) organise such activities and other programmes as the Board thinks necessary or desirable for the discharge of its functions under this Act;
- (e) carry out promotional activities or publicity in any form;
- (f) arrange for or provide professional and technical services in relation to the preservation of monuments, on such terms and conditions as may be approved by the Board;
- 15 (g) charge fees or commissions for any service provided by the Board under this Act; and
- (h) generally do all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its functions under this Act.
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### **Directions by Minister**

6.—(1) The Minister may give such directions, not inconsistent with the provisions of this Act, as to the performance of the functions and the exercise of its powers by the Board and the Board shall give effect to any such directions.

(2) The Board shall furnish the Minister with such information or facilities for obtaining information with respect to its functions in such manner and at such times as the Minister may reasonably require.

### **Appointment of National Monuments Advisory Committee**

30 7. Without prejudice to section 8 of the National Heritage Board Act (Cap. 196A), the Board, on such terms as it may determine, may appoint a committee, to be known as the National Monuments Advisory Committee, to advise the Board in the discharge of its functions under this Act.

## PART III

## APPOINTMENT OF DIRECTOR AND OTHER OFFICERS

**Appointment of Director of National Monuments**

5 **8.**—(1) The Board shall appoint one of its officers as the Director of National Monuments who shall be responsible for the performance of the duties and functions assigned to the Director under this Act.

(2) The Board may give such directions, not inconsistent with the provisions of this Act, as to the performance of the duties and functions of the Director and the Director shall give effect to any such directions.

10 **Appointment of Monument Inspectors**

**9.**—(1) The Director may in writing appoint any public officer or any officer or employee of the Board or of any other statutory authority to be a Monument Inspector for the purposes of this Act.

15 (2) Every Monument Inspector shall, when exercising his powers and carrying out his duties under this Act, comply with such general or special directions as may, from time to time, be given to him by the Director or the Board.

20 (3) Every Monument Inspector when exercising any powers under this Act shall, if not in uniform, declare his office and shall, on demand, produce to any person affected by the exercise of those powers such identification card as the Director may direct to be carried by the Monument Inspector when exercising such powers.

**Public servants**

25 **10.** The Director and all Monument Inspectors shall be deemed to be public servants for the purposes of the Penal Code (Cap. 224).



## PART IV

## PROVISIONS FOR PRESERVATION OF MONUMENTS

**Power of Minister to make preservation orders**

5 **11.**—(1) Subject to subsection (7), the Minister may, after consulting the Board, make a preservation order to place any monument under the protection of the Board.

(2) A monument which is subject to a preservation order shall be known as a national monument.

10 (3) A preservation order shall specify the monument protected by it and shall extend to —

(a) all the land containing the monument; and

(b) such land adjacent to the monument which is in the same ownership as the monument and which the Minister is satisfied should also be protected under this Act in order —

15 (i) to preserve the monument in its setting;

(ii) to provide or facilitate access to the monument; or

(iii) to provide for the exercise of proper control or management with respect to the monument.

(4) A preservation order shall —

20 (a) be published in the *Gazette*;

(b) take effect as from the date specified therein; and

(c) remain in force until revoked by the Minister under subsection (6) or until it otherwise ceases to have effect by virtue of section 12.

25 (5) A copy of the preservation order together with a notice stating the effect thereof shall be served upon the owner and the occupier (if he is a different person from the owner) of the monument and the land to which the order extends.

30 (6) Subject to subsection (7), the Minister may, after consulting the Board, by order published in the *Gazette*, amend or revoke a preservation order.

(7) Before the Minister makes, amends or revokes a preservation order, the Board shall —

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- (a) give notice in writing of the Minister's intention to do so to the owner and occupier of the monument and any land adjacent thereto which will be affected by the making, amendment or revocation (as the case may be) of the preservation order;
  - (b) in such notice specify a reasonable period within which such owner and occupier may submit to the Board their objections (if any) to the making, amendment or revocation (as the case may be) of the preservation order; and
  - (c) consider every objection received under paragraph (b) and make its recommendations to the Minister in relation thereto.
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(8) A preservation order shall bind all subsequent owners and occupiers of, and persons interested in, the land to which it applies and —

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- (a) if it affects registered land, shall be regarded as if it were a statutory obligation under section 142 of the Land Titles Act (Cap. 157); and
  - (b) if it affects unregistered land, shall be regarded as if it were an instrument affecting land under the Registration of Deeds Act (Cap. 269).
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(9) For the purposes of subsection (8), upon the Minister making a preservation order under subsection (1), the Board shall —

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- (a) if the preservation order affects registered land, notify the Registrar of Titles of the preservation order in accordance with section 142 of the Land Titles Act and the Registrar of Titles shall thereupon give effect to the preservation order in accordance with that section of the Land Titles Act as if the preservation order were a statutory obligation; and
  - (b) if the preservation order affects unregistered land, present a copy of the preservation order to the Registrar of Deeds in accordance with section 5 of the Registration of Deeds Act and the Registrar of Deeds shall thereupon register the preservation order under that section of the Registration of Deeds Act as if the preservation order were an instrument affecting land.
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(10) Any person who intends to transfer, assign, demise or otherwise deal with any monument or land affected by a preservation order shall give to the Board —

- 5           (a) not less than 2 weeks' notice in writing of the intended transfer, assignment, demise or dealing, as the case may be; and
- (b) notice in writing of the completion of the transfer, assignment, demise or dealing within 2 weeks of the completion thereof.

(11) Any person who contravenes subsection (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

- 10       (12) The Board shall publish, in such manner as it thinks fit, a list of all national monuments.

### **Saving for dwelling-house**

- 15       **12.** Where a preservation order is made in respect of any structure that appears to the Board to be occupied as a dwelling-house and that structure has not been vested in the Board or the Government, as the case may be, then, if the structure is not acquired under the Land Acquisition Act (Cap. 152) within the period of one year from the date of the preservation order, the preservation order shall cease to have effect in relation to that structure.

### **Duty to maintain national monument**

- 20       **13.**—(1) It shall be the duty of the owner and the occupier of any national monument to take all reasonable measures to ensure that the national monument is properly maintained at all times in accordance with such guidelines as may be issued by the Board.
- 25       (2) The Board may by notice in writing (referred to hereinafter as a preservation notice) require the owner or occupier of a national monument to carry out, at his own expense and within the time specified in the notice, such works for the preservation, maintenance or repair of the national monument as may be specified in the notice.
- 30       (3) The owner or occupier of a national monument may, within 14 days of service on him of a preservation notice or within such longer period as the Minister may allow, appeal to the Minister against the requirements of the preservation notice and the Minister may —

- (a) dismiss the appeal;

(b) allow the appeal unconditionally; or

(c) allow the appeal in whole or in part and subject to such conditions as he considers fit,

and may give such directions as he thinks necessary to give effect to his  
5 decision on the appeal.

(4) The decision of the Minister under subsection (3) shall be final.

(5) Subject to subsection (6), a preservation notice shall take effect from the date specified therein notwithstanding that any appeal under subsection (3) is pending.

10 (6) If the Minister is satisfied that the execution of the preservation notice may be delayed without resulting in any danger or damage to the national monument, the Minister may, subject to such conditions as he thinks fit to impose on the appellant, direct that the preservation notice shall not take effect until the determination or abandonment of the appeal.

15 (7) Subject to any direction of the Minister under subsection (6), any person who fails to comply with the requirements of a preservation notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the  
20 offence continues after conviction.

#### **Execution and costs of works required by preservation notice**

**14.** If the requirements of a preservation notice are not complied with to the satisfaction of the Board —

25 (a) the Director or a Monument Inspector may, at any reasonable time, enter the national monument to which the preservation notice relates and cause any of the works specified in the preservation notice and such other works which are in the Board's opinion necessary for the preservation of the national monument to be carried out; and

30 (b) the expenses reasonably incurred by the Director or Monument Inspector in the exercise of his powers under paragraph (a) and such other reasonable expenses as may be incidental thereto shall be recoverable by the Board as a civil debt from the person who is, on the date of the preservation notice, the owner or occupier  
35 of the national monument.

### **Control over work**

**15.**—(1) No person shall, without the prior written permission of the Board, and whether as principal or agent —

- 5           (a) demolish, reconstruct, alter or make additions to a national monument or any part thereof;
- (b) repair, renovate, repaint or redecorate a national monument or any part thereof;
- (c) deposit any waste material on or flood the land on which a national monument stands or any part thereof; or
- 10          (d) do in relation to the national monument or any part thereof or to the land on which the national monument is located such other act as may be prescribed as an act to which this section applies.

(2) In granting any permission required under subsection (1), the Board may impose such conditions as it thinks necessary for the protection of the national monument, including —

- 15           (a) conditions requiring any works affecting the national monument to be carried out in accordance with the specifications of the Board; and
- 20           (b) conditions requiring the person to whom the permission is granted to restore the national monument in accordance with the specifications of the Board in the event that any damage is caused to the national monument as a result of the works.

(3) The Board may refuse to grant any permission as required under subsection (1) if it is of the opinion that the works proposed to be done in relation to the national monument or any part thereof or to the land on which the national monument is located would affect the character or appearance of the national monument in a manner which is inappropriate or unbecoming a national monument.

- (4) Any person who —
- 30           (a) contravenes subsection (1); or
  - (b) fails to comply with any condition imposed by the Board under subsection (2),

shall be guilty of an offence and shall be liable on conviction —

- 5 (i) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or
- (ii) in any other case, to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.
- 10 (5) Subject to subsection (6), the court before which a person is convicted of an offence under subsection (4) may, in addition to punishing him in accordance with subsection (4), make an order requiring him —
- (a) at his own expense and within such time as may be specified in the order, to restore the national monument in accordance with the specifications of the Board; or
- 15 (b) to pay to the Board a sum equivalent to the cost of restoring the national monument.
- (6) Where the person convicted of an offence under subsection (4) is a body corporate (as defined in section 29(5)), a partnership or an unincorporated association (other than a partnership), the court may make the additional order referred to in subsection (5) against any person who, by virtue of section 29 is also guilty of that offence as an officer or a partner (as the case may be) of the body corporate, partnership or unincorporated association.
- 20 (7) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall, in particular, have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- 25 (8) In any proceedings for an offence under subsection (4), it shall be a defence for the person charged to prove that the act done by him in relation to the national monument had to be carried out urgently or immediately for the safety of persons or property, and that he had exercised all reasonable care to ensure that the act would have no more effect on the character or appearance of the national monument than was necessary in the circumstances.
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(9) Where the court makes an order requiring any person to pay a sum to the Board under subsection (5)(b), such sum, if unpaid, shall be recoverable from that person by the Board as if the sum were a judgment debt due to the Board.

5 (10) The Director or a Monument Inspector may enter, at any reasonable time, a national monument or any part thereof in order —

(a) to ascertain whether any works being carried thereon comply with the conditions imposed by the Board under subsection (2); and

10 (b) to take such action and give such direction as the Director or Monument Inspector considers necessary for the protection of the national monument.

**Power to require information about activities affecting national monument**

15 **16.**—(1) Where it appears to the Director or a Monument Inspector that there may have been a contravention of section 15(1) in respect of any national monument, he may serve a notice to that effect (referred to hereinafter as an information notice) on any person who —

(a) is the owner or occupier of the national monument;

20 (b) has any other interest in the national monument;

(c) is carrying out any operation or activity on the national monument; or

(d) is using the national monument for any purpose,

25 and may by such notice require that person to give such information as to —

(i) the operation or activity that has been or is being carried out on the national monument; or

(ii) the purposes for which the national monument has been or is being used.

30 (2) In particular, the information notice may require the person on whom it is served —

(a) to state whether or not the national monument has been or is being used for any of the purposes specified in the notice, or

whether or not any operation or activity specified in the notice has been or is being carried out on the national monument;

(b) to state when any such use, operation or activity began;

5 (c) to give the name and address of any person whom he knows has used or is using the national monument for any purpose, or has carried out or is carrying out any operation or activity on the national monument;

10 (d) to give any information he holds as to any written permission of the Board for any work or any reason for such written permission not being required for any work; and

(e) to state the nature of his interest (if any) in the national monument and the name and address of any other person known to him to have an interest in the national monument.

15 (3) Any requirement of an information notice shall be complied with by giving the information in writing to the Director or a Monument Inspector or to such officer or employee of the Board as may be specified in the information notice.

20 (4) The service of an information notice does not affect any other power exercisable by the Board, the Director or a Monument Inspector in respect of any breach of the provisions of this Act.

### **Non-compliance with information notice**

25 **17.**—(1) If, at any time after the end of the period of 21 days beginning with the day on which an information notice has been served on any person, such person has not complied with the requirements of the notice, he shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove that he did not know, and could not with reasonable diligence have ascertained, the information required.

(3) A person shall be guilty of an offence if he —

30 (a) makes any statement purporting to comply with a requirement of an information notice which he knows to be false or misleading in a material particular; or

(b) recklessly makes such a statement which is false or misleading in a material particular.



(4) A person guilty of an offence under this section shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

### **Enforcement notice**

**18.** If the Board is satisfied —

- (a) that section 15(1) has been or is being contravened in respect of any national monument; or
- (b) that any activity or operation being carried out by any person in relation to a national monument has caused or is likely to cause danger or damage to the national monument,

the Board may, by notice in writing (referred to hereinafter as an enforcement notice), require —

- (i) the owner or occupier of the national monument;
- (ii) the person who committed or is committing the contravention; or
- (iii) the person who carried out or is carrying out the activity or operation,

to do any or all of the following within the time specified in the notice:

- (A) to stop carrying out in relation to the national monument such activity or operation as may be specified in the enforcement notice;
- (B) to stop using the national monument for such purposes as may be specified in the enforcement notice;
- (C) to take, at his own expense, such protective, remedial or other measures in relation to the national monument as may be specified in the enforcement notice.

### **Appeal to Minister against enforcement notice**

**19.—**(1) Any person aggrieved by any requirement of an enforcement notice may, within 14 days of service on him of the enforcement notice or within such longer period as the Minister may allow, appeal to the Minister against such requirement.

(2) Where an appeal is made under subsection (1), the Minister may —

- (a) dismiss the appeal;
- (b) allow the appeal unconditionally; or
- (c) allow the appeal in whole or in part and subject to such conditions as he considers fit,

and may give such directions as he thinks necessary to give effect to his decision on the appeal.

(3) The decision of the Minister under subsection (2) shall be final.

(4) Subject to subsection (5), an enforcement notice shall take effect from the date specified therein notwithstanding that any appeal under subsection (2) is pending.

(5) If the Minister is satisfied that the execution of the enforcement notice may be delayed without resulting in any danger or damage to the national monument, the Minister may, subject to such conditions as he thinks fit to impose on the appellant, direct that the enforcement notice shall not take effect until the determination or abandonment of the appeal.

### **Non-compliance with enforcement notice**

**20.**—(1) Subject to any direction of the Minister under section 19(5), if a person on whom an enforcement notice has been served fails to comply with the notice —

- (a) that person shall be guilty of an offence;
- (b) the Director or a Monument Inspector may enter the national monument and take such measures as may be necessary to secure the compliance with the enforcement notice; and
- (c) the expenses reasonably incurred by the Director or Monument Inspector in the exercise of his powers under paragraph (b) and such other reasonable expenses as may be incidental thereto shall be recoverable by the Board as a civil debt from the person who failed to comply with the enforcement notice.

(2) A person guilty of an offence under subsection (1)(a) shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both

and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or

5 (b) in any other case, to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

10 (3) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall, in particular, have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

### **Injunctions**

15 **21.**—(1) Where the Director or a Monument Inspector considers it necessary or expedient for any actual or apprehended contravention of the provisions of this Act to be restrained by injunction, he may apply to the High Court for an injunction, whether or not he has exercised or is proposing to exercise any of his other powers under this Act.

(2) Where the Director or a Monument Inspector applies for an injunction under subsection (1), the High Court —

20 (a) shall not be bound to require an undertaking in damages from him; and

(b) may grant such injunction as it thinks appropriate in the circumstances.

### **Defacing, damaging or interfering with national monuments**

25 **22.**—(1) Any person who wilfully defaces, damages or otherwise interferes with any national monument shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 6 months or to both.

30 (2) The court before which a person is convicted of an offence under subsection (1) may —

(a) make an order requiring him, at his own expense and within such time as may be specified in the order, to restore the national monument in accordance with the specifications of the Board; or

(b) order him to pay to the Board a sum equivalent to the cost of restoring the national monument.

(3) Where the court orders any person to pay a sum to the Board under subsection (2)(b), such sum, if unpaid, shall be recoverable from that person by the Board as if the sum were a judgment debt due to the Board.

## PART V

### TRANSFER OF PROPERTY, ASSETS AND LIABILITIES

#### **Interpretation of this Part**

**23.** In this Part —

“National Heritage Board” means the National Heritage Board established under the National Heritage Board Act (Cap. 196A);

“Preservation of Monuments Board” means the Preservation of Monuments Board established under the repealed Preservation of Monuments Act (Cap. 239, 1985 Ed.) in force immediately before the appointed day.

#### **Transfer of property, assets and liabilities to National Heritage Board**

**24.**—(1) As from the appointed day, all movable and immovable property vested in the Preservation of Monuments Board and all assets, interests, rights, privileges, liabilities and obligations of that Board shall be transferred to and shall vest in the National Heritage Board without further assurance, act or deed.

(2) Any immovable property to be transferred to and vested in the National Heritage Board under subsection (1) shall be held by that Board upon such tenure and subject to such terms and conditions as the President may determine.

(3) Every proceedings by or against the Preservation of Monuments Board which are pending on the appointed day may be continued, completed and enforced by or against the National Heritage Board.

(4) Every agreement relating to any of the transferred properties to which the Preservation of Monuments Board was a party immediately before the appointed day, whether or not of such nature that the rights and

liabilities thereunder could be assigned, shall have effect as from that date as if —

- (a) the National Heritage Board had been a party to such an agreement; and
  - 5 (b) for any reference to the Preservation of Monuments Board there were substituted in respect of anything to be done on or after the appointed day a reference to the National Heritage Board.
- (5) It is hereby declared for the avoidance of doubt that —
- 10 (a) any reference in this Part to property vested in the Preservation of Monuments Board is a reference to such property of that Board whether situated in Singapore or elsewhere; and
  - (b) any such reference to rights and liabilities of the Preservation of Monuments Board is a reference to such rights to which that Board is entitled or, as the case may be, such liabilities to which that Board is subject, whether under the laws of Singapore or any country outside Singapore and includes rights and liabilities arising under loans raised by that Board.

### **Existing contracts**

20 **25.** All deeds, bonds, agreements, instruments and arrangements subsisting immediately before the appointed day which the Preservation of Monuments Board is a party shall continue in force on and after that date and shall be enforceable by or against the National Heritage Board as if the National Heritage Board had been named therein or had been a party thereto instead of the Preservation of Monuments Board.

### **No breach or default because of transfer**

- 25 **26.—**(1) The operation of this Part shall not be regarded —
- (a) as a breach of contract or confidence or otherwise as a civil wrong;
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities; or
  - 30 (c) as giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability.

(2) The operation of section 24 shall not be regarded as an event of default under any contract or other legal instrument.

(3) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the Preservation of Monuments Board is a party or may be bound prohibiting or having the effect of prohibiting the transfer of any property, rights, obligations or liabilities comprised in the undertaking transferred under this Part shall be deemed by this Act to have been waived.

## PART VI

### MISCELLANEOUS

#### **Powers of entry and enforcement**

**27.**—(1) The Director or a Monument Inspector may, at any reasonable time, enter upon any land for the purpose of —

- (a) inspecting any national monument thereon;
- (b) investigating into any contravention or suspected contravention of this Act;
- (c) ascertaining whether any of the functions or powers conferred by or under this Act on the Board should or may be exercised; and
- (d) taking any action or carrying out any work authorised or required by or under this Act.

(2) In addition to the powers conferred on him by this Act, the Director or a Monument Inspector may, in relation to any offence under this Act —

- (a) require any person whom he reasonably believes to have committed that offence to furnish evidence of the person's identity;
- (b) require any person to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward, inspect, copy or make extracts from such book or document; or
- (c) require, by order in writing, the attendance at such time and place as may be specified in the order of any person within the

limits of Singapore who, from any information given or otherwise obtained by the Director or Monument Inspector, appears to be acquainted with the circumstances of the case.

(3) Any person who —

- 5 (a) refuses to give access to, or assaults, obstructs, hinders or delays, the Director or a Monument Inspector in the discharge of his duties under this Act;
- 10 (b) wilfully mis-states or without lawful excuse refuses to give any information or produce any book, document or copy thereof required of him by the Director or a Monument Inspector under subsection (2); or
- (c) fails to comply with a lawful demand of the Director or a Monument Inspector in the discharge of his duties under this Act,

15 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.

### **Powers of arrest**

20 **28.**—(1) The Director, a Monument Inspector or a police officer may arrest any person whom he has reason to believe to be committing or to have committed an offence punishable under this Act if —

- (a) the name and address of the person are unknown to him;
- (b) the person declines to give his name and address; or
- 25 (c) there is reason to doubt the accuracy of the name and address given.

(2) A person arrested under this section may be detained until his name and address are correctly ascertained.

30 (3) A person arrested under this section shall not be detained longer than is necessary for bringing him before a court unless the order of a court for his continued detention is obtained.

### **Offences by bodies corporate, etc.**

**29.**—(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 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 —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“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 regulations 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.

#### **Jurisdiction of court**

**30.** 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.

#### **Composition of offences**

**31.—(1)** The Director or any officer of the Board authorised by the Director may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

### General exemption

5 **32.** The Board may, with the approval of the Minister, by order published in the *Gazette*, either permanently or for such period as the Board may think fit, exempt any monument or person or any class of monuments or persons from all or any of the provisions of this Act.

### Authentication of documents

10 **33.**—(1) Where any notice, order or other document required or authorised by this Act to be served on any person requires authentication, the signature of the Director, a Monument Inspector or any other duly authorised officer or employee of the Board or an official facsimile of such signature appended to such notice, order or document shall be sufficient authentication.

15 (2) In any proceedings under this Act, the contents of any such notice, order or document shall be presumed to be correct until the contrary is proved.

### Service of documents

**34.**—(1) Any notice, order or document required or authorised by this Act to be served on any person may be served on the person —

- 20 (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or place of business in an envelope addressed to the person;
- 25 (c) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or
- (d) in the case of an incorporated company, a partnership or a body of persons —
- 30 (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
- (ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order or document, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order or document, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

(3) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order or document to some conspicuous part of the premises.

(4) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

### **Regulations**

**35.**—(1) The Board may, with the approval of the Minister, make regulations for carrying out the purposes of this Act and for any matter which is required under this Act to be prescribed.

(2) Without prejudice to the generality of subsection (1), the purposes for which regulations may be made under this section include the following:

- (a) to prohibit or to control and regulate the carrying out of any work on or in relation to a national monument;
- (b) to prohibit or to control and regulate the use of a national monument for any particular purpose;
- (c) to prohibit or to control and regulate the doing of any particular act in relation to a national monument (including the placement or display of signs, banners, posters, buntings, flags or any other advertising material on a national monument);
- (d) to provide for the preservation and protection of any fitting, fixture, artefact or other movable object that is found in, is attached to or forms part of a national monument; and

(e) to prescribe additional duties to be imposed on the owner or occupier of a national monument in relation to the preservation, protection and use of such national monument.

(3) Regulations made under this section —

5 (a) may provide that any contravention of, or failure or neglect to comply with, any provision of such regulations shall be an offence;

(b) may prescribe the fine with which the offence shall be punishable, except that no such fine shall exceed for any one offence, the sum of \$5,000 and, in the case of a continuing offence, the sum of \$100 for every day or part thereof during which the offence continues after conviction; and

(c) may prescribe the offences which may be compounded under section 31.

15 (4) All regulations made under this Act shall be presented to Parliament as soon as possible after publication in the *Gazette*.

### **Repeal and consequential amendments to other written laws**

**36.**—(1) The Preservation of Monuments Act (Cap. 239) is repealed.

(2) The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

### **Related amendments to National Heritage Board Act**

**37.**—(1) Section 6 of the National Heritage Board Act (Cap. 196A) is amended —

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

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

“(h) to perform such other functions as are conferred on the Board by any other written law.”.

30 (2) Section 8 of the National Heritage Board Act is repealed and the following section substituted therefor:

**“Appointment of committees and delegation of powers**

8.—(1) The Board may, in its discretion, appoint such number of committees as it thinks fit consisting of its members or other persons or its members and other persons for purposes which, in the opinion of the Board, would be better regulated and managed by means of such committees.

(2) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee or to the Chairman, all or any of the powers and functions vested in the Board by this Act, except the power of delegation under this subsection and the power to make any subsidiary legislation under this Act; and any power or function so delegated may be exercised or performed by the committee or Chairman in the name and on behalf of the Board.

(3) The Board may, subject to such conditions or restrictions as it thinks fit, delegate to any employee of the Board or to any other person all or any of the powers and functions vested in the Board by this Act, except the power of delegation under this subsection and the power to make any subsidiary legislation under this Act; and any power or function so delegated may be exercised or performed by the employee or person in the name and on behalf of the Board.

(4) The Board may continue to exercise any power conferred upon it, or perform any function under this Act, notwithstanding the delegation of the power or function under this section.”.

(3) Section 31(1) of the National Heritage Board Act (Cap. 196A) is amended —

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

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

“(f) all moneys recovered or collected by the Board or any officer or employee thereof (including sums collected for the composition of offences) under this Act or under any other written law that is administered and enforced by the Board.”.

(4) Section 32 of the National Heritage Board Act is repealed and the following section substituted therefor:

**“Power to borrow**

5       **32.**—(1) For the performance of its functions or discharge of its duties under this Act or any other written law, the Board may, from time to time, raise loans from the Government or, with the approval of the Minister, raise loans within or outside Singapore from such source as the Minister may direct by —

- (a) mortgage, overdraft or other means, with or without security;
- 10       (b) charge, whether legal or equitable, on any property vested in the Board or on any other revenue receivable by the Board under this Act or any other written law; or
- (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

15       (2) For the purposes of this section, the power to raise loans shall include the power to make any financial agreement whereby credit facilities are granted to the Board for the purchase of goods, materials or things.”.

20       (5) Section 46 of the National Heritage Board Act (Cap. 196A) is amended by deleting subsection (10) and substituting the following subsection:

“**(10)** In this section —

25       “ancient monument” means any monument which, in the opinion of the Board, is of public interest by reason of the historic, cultural, traditional, archaeological, architectural, artistic or symbolic significance attaching to it;

“monument” means the whole or any part of, or the remains of —

- (a) any building, structure, erection, statue, sculpture or other work, whether above or below the surface of the land, and any cave or excavation;
- 30       (b) any site comprising the remains of any such building, structure, erection, statue, sculpture or other work or of any cave or excavation; or
- (c) any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part

thereof which neither constitutes nor forms part of any work which is a monument within paragraph (a),

and includes any machinery attached to or forming part of a monument which cannot be detached from the monument without being dismantled.”.

(6) The National Heritage Board Act (Cap. 196A) is amended by inserting, immediately after section 47, the following section:

**“Preservation of secrecy**

**47A.**—(1) Without prejudice to section 18(2), except for the purpose of the performance of his functions or the discharge of his duties or when lawfully required to do so by any court or under the provisions of this Act or any written law, no person who is or has been —

(a) a member, an officer, an employee or an agent of the Board;  
or

(b) a member of a committee appointed by the Board under this Act or any written law administered by the Board,

shall disclose any information relating to the affairs of the Board or of any other person which has been obtained by him in the performance of his functions or the discharge of his duties.

(2) Any 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.”.

(7) Section 48 of the National Heritage Board Act is amended by inserting, immediately after the words “this Act”, the words “or the Preservation of Monuments Act 2009”.

**Saving and transitional provisions**

**38.**—(1) For the avoidance of doubt —

(a) every preservation order made under section 8 of the repealed Preservation of Monuments Act (Cap. 239) shall be deemed to have been made under section 11 of this Act;

(b) any permission, approval, decision, notice, order (not being a preservation order) or other document prepared, made, granted,

issued and any act or thing done under or pursuant to the repealed Preservation of Monuments Act (Cap. 239) and valid immediately before the appointed day shall be deemed to have been prepared, made, granted, issued or done under or pursuant to the corresponding provision of this Act and shall continue to have effect accordingly;

(c) any application, request, objection or appeal made to the Preservation of Monuments Board or the Minister under any provision of the repealed Preservation of Monuments Act on which the decision of that Board or the Minister has not been made immediately before the appointed day shall be deemed to have been made and shall be dealt with under the corresponding provision of this Act;

(d) the powers conferred on the National Heritage Board, the Director or a Monument Inspector by this Act may be exercised in respect of any breach, contravention or non-compliance of or under the repealed Preservation of Monuments Act as if it were a breach, contravention or non-compliance of or under the corresponding provision of this Act, except any offence committed under the repealed Preservation of Monuments Act before the appointed day shall be dealt with in accordance with the provisions of that Act as if this Act had not been enacted; and

(e) any enforcement process or proceedings commenced, pending or existing immediately before the appointed day in connection with any breach, contravention or non-compliance of or under the repealed Preservation of Monuments Act may be continued and disposed of under the provisions of that Act as if this Act had not been enacted.

(2) In so far as it is necessary for preserving the effect of any written law or document, any reference in such written law or document to the repealed Preservation of Monuments Act shall, unless the context otherwise requires, be construed as a reference to this Act.

(3) For a period of 2 years after the appointed day, the Minister may, by regulations, prescribe such other transitional, incidental and consequential matters arising from the repeal of the Preservation of Monuments Act, as he may consider necessary or expedient.



## THE SCHEDULE

Section 36(2)

## CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
<p>(1) Accounting Standards Act (Chapter 2B, 2008 Ed.)</p> <p>The Schedule</p>	<p>Delete item 36.</p>
<p>(2) Central Provident Fund Act (Chapter 36, 2001 Ed.)</p> <p>First Schedule, paragraph 6</p>	<p>Delete item (45).</p>
<p>(3) Planning Act (Chapter 232, 1998 Ed.)</p> <p>Section 3(3)</p>	<p>Delete the words “Preservation of Monuments Act (Cap. 239)” in paragraph (h) and substitute the words “Preservation of Monuments Act 2009”.</p>
<p>(4) Urban Redevelopment Authority Act (Chapter 340, 1990 Ed.)</p> <p>Section 2</p>	<p>(a) Delete the words “Preservation of Monuments Act” in the definition of “monument” and substitute the words “Preservation of Monuments Act 2009”.</p> <p>(b) Delete the marginal reference “Cap. 239.” in the definition of “monument”.</p>

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## EXPLANATORY STATEMENT

This Bill seeks to provide for the preservation and protection of national monuments by the National Heritage Board and for matters connected therewith. The Bill also repeals the Preservation of Monuments Act (Cap. 239) and makes related amendments to the National Heritage Board Act (Cap. 196A) and consequential amendments to certain other written laws.

### PART I

#### PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

### PART II

#### FUNCTIONS AND POWERS OF BOARD UNDER THIS ACT

Clause 3 provides that the National Heritage Board (the Board) will be responsible for the administration and enforcement of the Bill.

Clause 4 sets out the functions of the Board under the Bill.

Clause 5 sets out the general powers exercisable by the Board in discharging its functions under the Bill.

Clause 6 empowers the Minister to give directions to the Board concerning the performance by the Board of its functions under the Bill.

Clause 7 empowers the Board to appoint a National Monuments Advisory Committee to advise the Board in the discharge of its functions under the Bill.

### PART III

#### APPOINTMENT OF DIRECTOR AND OTHER OFFICERS

Clause 8 provides for the appointment of the Director of National Monuments (the Director).

Clause 9 provides for the appointment of Monument Inspectors for the purpose of enforcing the Bill. The clause also provides for a Monument Inspector to carry an identification card when exercising his powers under the Bill.

Clause 10 deems the Director and all Monument Inspectors to be public servants for the purposes of the Penal Code (Cap. 224).

## PART IV

## PROVISIONS FOR PRESERVATION OF MONUMENTS

Clause 11 empowers the Minister to make preservation orders placing monuments under the protection of the Board. A monument being protected by a preservation order will be regarded as a national monument.

Clause 12 provides that a preservation order made in respect of any structure being used as a dwelling-house will cease to have effect after one year if the structure is not acquired by the Board or the Government within that time.

Clause 13 sets out the duties of the owner or occupier of a national monument. The clause also empowers the Board to serve a preservation notice on the owner or occupier of a national monument requiring such owner or occupier to carry out such works for the preservation, maintenance or repair of the national monument as may be specified in the notice.

Clause 14 spells out the consequences that will follow if a preservation notice is not complied with.

Clause 15 sets out the kinds of works which may not be carried out in respect of a national monument without the prior written permission of the Board.

Clause 16 empowers the Director or a Monument Inspector to obtain the necessary information for the purposes of investigating into a contravention of clause 15.

Clause 17 makes it an offence for any person to fail to comply with an information notice issued by the Director or a Monument Inspector under clause 16.

Clause 18 relates to the enforcement action which may be taken by the Board in the event of a contravention of clause 15.

Clause 19 provides for an appeal to the Minister against any enforcement action taken under clause 18.

Clause 20 spells out the consequences that will follow if an enforcement notice under clause 18 is not complied with.

Clause 21 empowers the Director or a Monument Inspector to apply to the High Court for an injunction for the purpose of dealing with any actual or apprehended contravention of the provisions of the Bill.

Clause 22 makes it an offence for any person to wilfully deface, damage or otherwise interfere with any national monument.

## PART V

## TRANSFER OF PROPERTY, ASSETS AND LIABILITIES

Clause 23 defines certain terms used in the Part.

Clauses 24 and 25 provide for the transfer to the Board of the property, assets and liabilities of the Preservation of Monuments Board (which will be dissolved upon the repeal of the Preservation of Monuments Act (Cap. 239) — see clause 36).

Clause 26 provides that the operation of the Part will not be regarded as a breach of contract or other civil wrong, or giving rise to any remedy by a party to a legal instrument, or as causing or permitting the termination of any legal instrument, because of a change in the beneficial or legal ownership of any asset or liability. Any existing provision in an agreement, etc., prohibiting a transfer of undertaking under the Bill is deemed to have been waived.

## PART VI

### MISCELLANEOUS

Clauses 27 and 28 spell out certain additional enforcement powers of the Director and a Monument Inspector.

Clause 29 relates to the liability of directors and partners for any offence under the Bill committed by a company or firm.

Clause 30 empowers a District Court to try any offence under the Bill and to impose the full penalty or punishment in respect of the offence.

Clause 31 provides for the composition of offences under the Bill.

Clause 32 empowers the Board, with the approval of the Minister, to exempt, either permanently or for such period as the Board may think fit, any monument or person or any class of monuments or persons from all or any of the provisions of the Bill.

Clause 33 relates to the authentication of notices, order or other documents issued under the Bill.

Clause 34 relates to the service of documents under the Bill.

Clause 35 empowers the Board, with the approval of the Minister, to make regulations for the purposes of the Bill and for any matter which is required under the Bill to be prescribed.

Clause 36 (to be read with the Schedule) repeals the Preservation of Monuments Act and makes consequential amendments to the following Acts arising from the repeal:

- (a) the Accounting Standards Act (Cap. 2B);
- (b) the Central Provident Fund Act (Cap. 36);
- (c) the Planning Act (Cap. 232); and
- (d) the Urban Redevelopment Authority Act (Cap. 340).

Clause 37 makes the following related amendments to the National Heritage Board Act (Cap. 196A):

- (a) section 6 is amended to provide for the Board to discharge such other functions as are conferred on the Board by any other written law;

- (b) section 8 is amended to update and expand on the powers of the Board to appoint committees and delegate certain of its powers;
- (c) section 31(1) is amended to include amongst the funds and property of the Board all moneys recovered or collected by the Board or any officer or employee thereof (including sums collected for the composition of offences) under that Act or under any other written law that is administered and enforced by the Board;
- (d) section 32 is amended to update the powers of the Board to raise loans for the performance of its functions or the discharge of its duties under that Act or any other written law;
- (e) section 46(10) is amended to align the definitions of “ancient monument” and “monument” with the definition of “monument” in clause 2;
- (f) a new section 47A is inserted —
  - (i) to protect the secrecy of certain information that has been obtained by a member, an officer, an employee or an agent of the Board or a member of a committee appointed by the Board, in the performance of his functions or the discharge of his duties; and
  - (ii) to allow for disclosure of such information only in certain specified circumstances;
- (g) section 48 is amended to confer immunity from suit on the Board, its members, officers and employees and on persons acting under the direction of the Board for anything which is in good faith done or intended to be done in the execution or purported execution of the Bill.

Clause 38 contains the necessary saving and transitional provisions arising from the repeal of the Preservation of Monuments Act (Cap. 239) by clause 36.

## EXPENDITURE OF PUBLIC MONEY

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

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