

National Environment Agency (Miscellaneous Amendments) Bill

Bill No. 7/2016.

Read the first time on 28 January 2016.

A BILL

intituled

An Act to amend certain statutes of the Republic of Singapore that relate to, or are administered by, the National Environment Agency.

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 is the National Environment Agency (Miscellaneous Amendments) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of Control of Vectors and Pesticides Act

2. The Control of Vectors and Pesticides Act (Cap. 59, 2002 Ed.) is amended —

(a) by inserting, immediately after the definition of “authorised officer” in section 2, the following definition:

10 ““auxiliary officer” means an individual who is appointed as an auxiliary officer under section 16A(1) of the National Environment Agency Act (Cap. 195);” and

15 (b) by deleting subsection (2) of section 4 and substituting the following subsection:

“(2) The Director-General may in writing appoint any of the following persons to be an authorised officer for the purposes of this Act:

- (a) a public officer;
- 20 (b) an officer or auxiliary officer of the Agency;
- (c) an officer of any statutory authority;
- (d) an auxiliary police officer appointed under the Police Force Act (Cap. 235).”.

25 Amendment of Environmental Protection and Management Act

3. The Environmental Protection and Management Act (Cap. 94A, 2002 Ed.) is amended —

(a) by inserting, immediately after the definition of “authorised officer” in section 2, the following definition:

30 ““auxiliary officer” means an individual who is appointed as an auxiliary officer under

section 16A(1) of the National Environment Agency Act (Cap. 195);” and

- (b) by deleting subsection (2) of section 3 and substituting the following subsection:

“(2) The Director-General may in writing appoint any of the following persons to be an authorised officer for the purposes of this Act:

- (a) a public officer;
- (b) an officer or auxiliary officer of the Agency;
- (c) an officer of any statutory authority;
- (d) a member or an employee of any Town Council;
- (e) an auxiliary police officer appointed under the Police Force Act (Cap. 235).”.

Amendment of Environmental Public Health Act

4. The Environmental Public Health Act (Cap. 95, 2002 Ed.) is amended —

- (a) by inserting, immediately after the definition of “authorised officer” in section 2, the following definition:

““auxiliary officer” means an individual who is appointed as an auxiliary officer under section 16A(1) of the National Environment Agency Act (Cap. 195);” and

- (b) by deleting subsection (2) of section 3 and substituting the following subsection:

“(2) The Director-General may in writing appoint any of the following persons to be an authorised officer for the purposes of this Act:

- (a) a public officer;
- (b) an officer or auxiliary officer of the Agency;
- (c) an officer of any statutory authority;

(d) an auxiliary police officer appointed under the Police Force Act (Cap. 235).”.

Amendment of National Environment Agency Act

5 **5.** The National Environment Agency Act (Cap. 195, 2003 Ed.) is amended —

(a) by inserting, immediately after the definition of “Agency” in section 2, the following definition:

10 “ “auxiliary officer” means an individual who is appointed as an auxiliary officer under section 16A(1);”;

(b) by inserting, immediately after the definition of “Deputy Chairman” in section 2, the following definition:

“ “environmental written law” means a written law administered by any of the following:

15 (a) the Agency;

(b) the Director-General of Environmental Protection appointed under section 3(1) of the Environmental Protection and Management Act (Cap. 94A);

20 (c) the Director-General of Public Health appointed under section 3(1) of the Environmental Public Health Act (Cap. 95);”;

(c) by inserting, immediately after section 16, the following section:

“Appointment of auxiliary officers

30 **16A.—**(1) The Agency may in writing appoint an individual (who may or may not be a public officer) to be an auxiliary officer to assist the officers and employees of the Agency in the performance of any function of the Agency.

(2) The Agency may, for any reason that appears to the Agency to be sufficient, at any time revoke an individual's appointment as an auxiliary officer.

(3) An auxiliary officer is to be issued with such equipment, or such description of equipment, as the chief executive may determine necessary for the effectual discharge of the duties of an auxiliary officer.

(4) An auxiliary officer is not an officer or employee of the Agency.

(5) An individual who is appointed as an auxiliary officer under subsection (1) does not, by virtue only of the appointment, become an agent of the Agency.”;

(d) by deleting subsection (1) of section 42 and substituting the following subsection:

“(1) In addition to the powers conferred on an officer or employee of the Agency by this Act or any environmental written law, the officer or employee may —

(a) on declaration of the officer's or employee's office, and production of such identification card as the chief executive may direct to be carried by an officer or employee of the Agency —

(i) require any person whom the officer or employee reasonably believes to have committed any offence under this Act or that environmental written law to furnish evidence of that person's identity;

(ii) for the purposes of this Act or that environmental written law —

(A) require any person to furnish any information or produce any book, document or copy of a book or

document in the possession of that person; and

(B) without fee or reward inspect, copy or make extracts from that book, document or copy; and

(iii) when conducting any investigation under this Act or that environmental written law, require, by order in writing, the attendance before the officer or employee of any person within the limits of Singapore who, from any information given or otherwise obtained by the officer or employee, appears to be acquainted with the circumstances of the case; and

(b) photograph or otherwise record the scene of any offence under this Act or that environmental written law, and any thing or individual in the scene.”;

(e) by deleting the words “other written law” in section 42(2)(a) and (c) and substituting in each case the words “environmental written law”;

(f) by deleting the words “subsection (1)” in section 42(2)(b) and substituting the words “subsection (1)(a)”;

(g) by inserting, immediately after subsection (2) of section 42, the following subsection:

“(3) In this section —

“photograph” includes making a digital image or a moving visual record;

“scene”, in relation to an offence under this Act or any environmental written law, means —

(a) any place or vehicle where the offence was committed, is reasonably suspected

to have been committed, or is about to be committed; or

- (b) any place or vehicle associated with, or relevant to, the commission or suspected commission of the offence.”;

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(h) by inserting, immediately after section 42, the following section:

“Authorisation of auxiliary officers to exercise powers of enforcement

42A.—(1) The chief executive must, in writing, issue to each auxiliary officer an authorisation specifying such power as is specified in subsection (3) that the auxiliary officer may exercise, and no other powers.

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(2) The powers that an auxiliary officer may be authorised under this section to exercise may be exercised only to the extent authorised by the chief executive under this section and directed by an officer or employee of the Agency.

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(3) An auxiliary officer may be authorised under this section to exercise all or any of the powers conferred on an officer or employee of the Agency by this Act or any environmental written law, in relation to any offence under this Act or that environmental written law.

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(4) The authorisation of the chief executive under subsection (1) issued to an auxiliary officer may also do all or any of the following:

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(a) limit the powers in subsection (3) that the auxiliary officer may exercise;

(b) limit when, and where in Singapore, the auxiliary officer may exercise those powers or any of them;

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(c) limit the circumstances in which the auxiliary officer may exercise those powers or any of them.

(5) An auxiliary officer who is authorised under subsection (1) to exercise any power in subsection (3) —

5 (a) must obey all lawful directions (general or specific) of the chief executive and an officer or employee of the Agency when exercising that power; and

10 (b) is deemed to be a public servant for the purposes of the Penal Code (Cap. 224) when exercising that power.

15 (6) Without prejudice to subsection (5), where any law or written law protects an officer or employee of the Agency from liability for the officer's or employee's acts or omissions, that law or written law is taken to operate as if those acts or omissions included an auxiliary officer's acts or omissions when acting in the course of the auxiliary officer's duty as an auxiliary officer in accordance with —

20 (a) the written authorisation of the chief executive under subsection (1); and

(b) the lawful directions (general or specific) of the chief executive and an officer or employee of the Agency.

25 (7) To avoid doubt, an auxiliary officer does not cease to be acting on the direction of an officer or employee of the Agency by reason only that the officer or employee is not present at all times.”; and

(i) by inserting, immediately after the word “employee” in section 47(1)(a), the words “, an auxiliary officer”.

EXPLANATORY STATEMENT

This Bill seeks to amend various Acts that relate to, or are administered by, the National Environment Agency (the Agency).

In particular, the Bill amends the National Environment Agency Act (Cap. 195) for the following main purposes:

- (a) to provide for the appointment of individuals as auxiliary officers of the Agency;
- (b) to extend the powers of enforcement of an officer or employee of the Agency under the Act or any environmental written law to include the photographing or recording of the scene of any offence under the Act or that environmental written law;
- (c) to enable auxiliary officers of the Agency to exercise certain powers of enforcement conferred on an officer or employee of the Agency under the Act and certain environmental written laws.

The Bill also —

- (a) makes related amendments to the Control of Vectors and Pesticides Act (Cap. 59), the Environmental Protection and Management Act (Cap. 94A) and the Environmental Public Health Act (Cap. 95), to enable an auxiliary officer of the Agency to be appointed as an “authorised officer” for the administration of those Acts; and
- (b) amends the Control of Vectors and Pesticides Act and the Environmental Public Health Act to enable an auxiliary police officer appointed under the Police Force Act (Cap. 235) to be appointed as an “authorised officer” for the administration of those Acts.

The main changes made by the Bill are contained in clause 5.

Clause 1 relates to the short title and commencement.

Clause 5(a) and (b) amends section 2 of the National Environment Agency Act to introduce definitions for “auxiliary officer” and “environmental written law”.

The term “environmental written law” is used in the amendments to section 42 of the National Environment Agency Act (by clause 5(d), (e) and (g)) and in the new section 42A of that Act (inserted by clause 5(h)). An “environmental written law” refers to a written law administered by any of the following:

- (a) the Agency;
- (b) the Director-General of Environmental Protection appointed under section 3(1) of the Environmental Protection and Management Act;
- (c) the Director-General of Public Health appointed under section 3(1) of the Environmental Public Health Act.

Clause 5(c) inserts a new section 16A in the National Environment Agency Act to empower the Agency to appoint, in writing, any individual, whether or not a public officer, to be an auxiliary officer to assist any officer or employee of the Agency in performing any function of the Agency.

An auxiliary officer is not an officer or employee of the Agency, and may include a volunteer. An individual who is appointed as an auxiliary officer does not become an agent of the Agency by virtue only of the appointment. An auxiliary officer will not be regarded as being in breach of his or her employment contract by virtue only of being appointed as an auxiliary officer.

An individual's appointment as an auxiliary officer can be revoked at any time.

Every auxiliary officer will be issued with equipment determined by the chief executive of the Agency (the chief executive) to be necessary for the effectual discharge of the duties of an auxiliary officer.

Clause 5(d), (e), (f) and (g) amends section 42 of the National Environment Agency Act to extend the powers of enforcement conferred on an officer or employee of the Agency under the Act or any environmental written law. The new section 42(1)(b) makes it clear that an officer or employee of the Agency may, in relation to any offence under the Act or that environmental written law, photograph or record the scene of the offence and any thing or individual in the scene. The act of photographing the scene of the offence includes the making of a digital image or a moving visual record. The scene of the offence refers to any place or vehicle where the offence was committed, is reasonably suspected to have been committed, or is about to be committed, and extends to any place or vehicle associated with, or relevant to, the commission or suspected commission of the offence.

Clause 5(h) inserts a new section 42A in the National Environment Agency Act to empower the chief executive to authorise, in writing, an auxiliary officer to exercise all or any of the powers conferred on an officer or employee of the Agency under the Act or any environmental written law, in relation to any offence under the Act or that environmental written law.

The chief executive may limit the powers that an auxiliary officer may exercise, as well as limit when, where in Singapore, and the circumstances in which the auxiliary officer may exercise all or any of those powers.

An auxiliary officer may exercise those powers only to the extent authorised by the chief executive and directed by an officer or employee of the Agency. When exercising any power of enforcement, an auxiliary officer must obey all lawful directions of the chief executive and an officer or employee of the Agency. An auxiliary officer is deemed to be a public servant for the purposes of the Penal Code (Cap. 224) when exercising such power, so that the provisions of the Penal Code that apply to public servants also apply to auxiliary officers.

Clause 5(i) amends section 47(1) of the National Environment Agency Act to prohibit an auxiliary officer from disclosing certain information obtained when performing the auxiliary officer's duties or functions, except in certain circumstances.

Clauses 2, 3 and 4 make related amendments to the Control of Vectors and Pesticides Act, the Environmental Protection and Management Act and the Environmental Public Health Act, respectively. The amendments enable an auxiliary officer of the Agency to be appointed as an "authorised officer" for the administration of those Acts.

Clauses 2(b) and 4(b) also amend the Control of Vectors and Pesticides Act and the Environmental Public Health Act, respectively, to enable an auxiliary police officer appointed under the Police Force Act to be appointed as an "authorised officer" for the administration of those Acts.

EXPENDITURE OF PUBLIC MONEY

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