

Radiation Protection (Amendment) Bill

Bill No. 14/2014.

Read the first time on 26th May 2014.

A BILL

intituled

An Act to amend the Radiation Protection Act (Chapter 262 of the 2008 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 Radiation Protection (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of long title

2. The long title to the Radiation Protection Act (referred to in this Act as the principal Act) is amended by deleting the words “and to establish a system for the imposition and maintenance of nuclear safeguards,” and substituting the words “, to establish a system for the
10 imposition and maintenance of nuclear safeguards, and to implement the Convention on the Physical Protection of Nuclear Material,”.

Amendment of section 2

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

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

“ “Convention country” means a foreign country that is a Party to the Nuclear Material Convention;”;

(b) by inserting, immediately after the definition of “conveyance”, the following definition:

20 “ “country” includes a State or territory, as the case may be;”;

(c) by deleting the words “the Schedule” in the definition of “nuclear material” and substituting the words “the First Schedule”; and

25 (d) by inserting, immediately after the definition of “nuclear material”, the following definitions:

30 “ “Nuclear Material Convention” means the Convention on the Physical Protection of Nuclear Material adopted in Vienna on 26th October 1979;

“nuclear offence” means —

(a) an offence under section 26B or 26D;

- (b) an offence specified in the Second Schedule committed in relation to any nuclear material;
- (c) an abetment of or a conspiracy to commit an offence referred to in paragraph (a) or (b);
- (d) an attempt to commit an offence under section 26B, or an offence referred to in paragraph (b) except any offence under section 384, 385, 386, 387, 388 or 389 of the Penal Code (Cap. 224) committed in relation to nuclear material; or
- (e) an act by a person which would make him liable for an offence referred to in paragraph (a), (b) or (d) by virtue of section 34, 35 or 37 of the Penal Code;”.

(2) Section 2(1) of the principal Act in force immediately before the commencement of this subsection is amended by deleting the definitions of “Nuclear Material Convention” and “nuclear offence” and substituting the following definitions:

““Nuclear Material Convention” means the Convention on the Physical Protection of Nuclear Material adopted in Vienna on 26th October 1979, as amended by the amendments adopted in Vienna on 8th July 2005;

“nuclear offence” means —

- (a) an offence under section 26B, 26D, 26DA, 26DB or 26DC;
- (b) an offence specified in the Second Schedule committed in relation to any nuclear material;
- (c) an abetment of or a conspiracy to commit an offence referred to in paragraph (a) or (b);
- (d) an attempt to commit an offence under section 26B, 26DA or 26DB, or an offence

referred to in paragraph (b) except any offence under section 384, 385, 386, 387, 388 or 389 of the Penal Code committed in relation to nuclear material; or

- 5 (e) an act by a person which would make him liable for an offence referred to in paragraph (a), (b) or (d) by virtue of section 34, 35 or 37 of the Penal Code;

“nuclear trafficking offence” means —

- 10 (a) an offence under section 26DD;
- (b) an abetment of or an attempt or conspiracy to commit an offence under section 26DD; or
- 15 (c) an act by a person which would make him liable for an offence under section 26DD or an attempt to commit such an offence by virtue of section 34, 35 or 37 of the Penal Code;”.

New section 2A

- 20 4. The principal Act is amended by inserting, immediately after section 2, the following section:

“Application of Act to Government

2A.—(1) Except as provided in subsection (2), Parts III to VIII and X and regulations made for the purposes of these Parts shall bind and apply to the Government.

- 25 (2) Nothing in this Act shall render the Government liable to prosecution for an offence.”.

Amendment of section 5

5. Section 5(2) of the principal Act is amended by deleting the words “2 years” and substituting the words “5 years”.

Amendment of section 6

6. Section 6(5) of the principal Act is amended by deleting the words “2 years” and substituting the words “5 years”.

Amendment of section 16

7. Section 16(1) of the principal Act is amended by inserting, immediately after the words “Safeguards Agreement”, the words “, or to a Convention country or the IAEA or any other international organisation under the Nuclear Material Convention”.

Amendment of section 17

8. Section 17(2) of the principal Act is amended by deleting the words “or the Safeguards Agreement” in paragraph (b) and substituting the words “, the Safeguards Agreement or the Nuclear Material Convention”.

New Part VIIIA

9.—(1) The principal Act is amended by inserting, immediately after section 26, the following Part:

“PART VIIIA

OFFENCES RELATING TO NUCLEAR MATERIAL CONVENTION

Nuclear material

26A.—(1) In this Part, “nuclear material” means —

- (a) plutonium except plutonium with an isotopic concentration of plutonium-238 exceeding 80%;
- (b) uranium-233;
- (c) uranium containing uranium-233 or uranium-235 or both in such an amount that the abundance ratio of the sum of those isotopes to uranium-238 is greater than the ratio of uranium-235 to uranium-238 occurring in nature;
- (d) uranium with an isotopic concentration equal to that occurring in nature; or

(e) any material containing one or more of the foregoing, that is used for peaceful purposes, but does not include uranium in the form of ore or ore-residue.

(2) If in any proceedings a question arises whether any nuclear material was used for peaceful purposes, a certificate issued by the Minister and stating that it was, or was not, so used at a time specified in the certificate, shall be prima facie evidence of that matter.

Use, etc., of nuclear material

26B. Any person who, without lawful authority, receives, possesses, uses, transfers, alters, disposes of, or disperses nuclear material, where the act causes or is likely to cause —

(a) death or serious injury to any person; or

(b) substantial damage to property,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to life imprisonment.

Enhanced punishment for theft, etc., of nuclear material

26C.—(1) If, in a prosecution of a person for an offence under a section of the Penal Code (Cap. 224) set out in the first column of the Second Schedule, it is proved that —

(a) the offence is committed in relation to nuclear material; and

(b) the person knew that it was nuclear material,

then, in lieu of the term of imprisonment prescribed in that section, the person shall be liable to the term of imprisonment set out in the second column of that Schedule against that section.

(2) Subsection (1) is without prejudice to any liability of the person to, or the jurisdiction of the court to impose, any other punishment prescribed in that section of the Penal Code.

Threat to commit certain offences

26D.—(1) Any person who threatens to use nuclear material to cause —

- (a) death or serious injury to any person; or
- (b) substantial damage to property,

5

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to 10 years.

(2) Any person who threatens to commit, in relation to nuclear material —

- (a) theft within the meaning of section 378 of the Penal Code (Cap. 224); or
- (b) robbery within the meaning of section 390 of the Penal Code,

10

in order to compel a person, an international organisation, the Government or the government of a country to do or refrain from doing any act, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to 10 years.

15

Information relating to offence

26E.—(1) Any person in Singapore who has information which he knows or believes may be of material assistance —

20

- (a) in preventing the commission by another person of an offence to which this section applies; or
- (b) in securing the apprehension, prosecution or conviction of another person, in Singapore, for an offence involving the commission, preparation or instigation of an offence to which this section applies,

25

and who fails to disclose the information immediately to a police officer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

30

(2) This section applies to the following offences:

- (a) an offence under section 26B;
- (b) an offence specified in the Second Schedule committed in relation to any nuclear material.

5 (3) No criminal or civil proceedings shall lie against a person for any disclosure made in good faith under this section.

(4) A person who makes a disclosure in good faith under this section shall not be treated as being in breach of any restriction upon the disclosure of information imposed by law, contract or
10 rules of professional conduct.

(5) For the avoidance of doubt, this section is without prejudice to sections 128, 128A and 129 of the Evidence Act (Cap. 97).

Extra-territoriality

15 **26F.** Any person who, outside Singapore, commits an act that, if committed in Singapore, would constitute a nuclear offence is deemed to commit the act in Singapore and may be proceeded against, charged, tried and punished accordingly.

Assistance under Mutual Assistance in Criminal Matters Act

20 **26G.**—(1) For the purposes of the provision of assistance under Part III of the Mutual Assistance in Criminal Matters Act (Cap. 190A) to a foreign country for a criminal matter involving a relevant offence of that country, the relevant offence shall be deemed not to be an offence of a political character.

25 (2) In this section —

“criminal matter” has the meaning given to that expression in section 2(1) of the Mutual Assistance in Criminal Matters Act;

30 “relevant offence”, in relation to a foreign country, means an offence against the law of that country that consists of or includes conduct which, if it had occurred in Singapore, would have constituted a nuclear offence.

Extradition

26H.—(1) All nuclear offences shall be deemed to be extraditable crimes for the purposes of Parts III and IV of the Extradition Act (Cap. 103).

(2) For the purposes of the Extradition Act, the expression “extradition crime”, in relation to a Convention country that is a declared Commonwealth country, shall be deemed to include relevant offences. 5

(3) Subject to subsection (4), where no extradition treaty is in force between Singapore and a Convention country that is not a declared Commonwealth country, a notification in the *Gazette* under section 4 of the Extradition Act may be made applying that Act as if there were an extradition treaty between Singapore and that country. 10

(4) Where the Extradition Act is applied under subsection (3), that Act shall have effect in relation to that country as if the only extradition crimes under that Act were the relevant offences of that country. 15

(5) Subsection (4) is without prejudice to any other notification made under section 4 of the Extradition Act. 20

(6) Where —

(a) an extradition treaty is in force between Singapore and a Convention country; and

(b) the treaty does not provide for the extradition of persons accused of or convicted of a relevant offence of that country, 25

a notification in the *Gazette* under section 4 of the Extradition Act may be made applying that Act in relation to that country as if the treaty provided for the matter referred to in paragraph (b).

(7) Where a notification referred to in subsection (6) is made, any limitation, condition, exception or qualification specified in any other notification made under section 4 of the Extradition Act, or in any Order in Council referred to in section 3 of that Act, in relation to that country shall, to the extent that it prevents 30

the relevant offence from being considered an extradition crime in relation to that country, be disregarded in the application of that Act in relation to that country.

(8) For the purposes of the Extradition Act —

5 (a) any act, wherever committed, which is a relevant offence of a Convention country which is a declared Commonwealth country, or which is a relevant offence of a Convention country which is not a declared Commonwealth country in the case of which the Extradition Act has been applied by a notification in the *Gazette* made under section 4 of that Act, shall be deemed to be an offence within the jurisdiction of that country; and

10 (b) any such offence shall be deemed not to be an offence of a political character.

15 (9) In this section —

“declared Commonwealth country” has the meaning given to that expression in the Extradition Act;

20 “relevant offence”, in relation to a Convention country, means an offence against the law of that country where the act or omission constituting the offence or the equivalent act or omission —

(a) would constitute a nuclear offence; or

25 (b) would be such an offence if the description concerned contained a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence.”.

30 (2) The principal Act in force immediately before the commencement of this subsection is amended —

(a) by repealing section 26A and substituting the following section:

“Interpretation and application of this Part

26A.—(1) In this Part —

“armed conflict” does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; 5

“environment” includes land, air and water and living organisms supported by any of those media;

“military forces of a State” means — 10

(a) the armed forces of a State which are organised, trained and equipped under its internal law for the primary purpose of national defence or security;

(b) civilians who direct or organise the official activities of those armed forces; or 15

(c) civilians acting in support of the official activities of those armed forces, if the civilians are under the formal command, control and responsibility of those forces; 20

“nuclear facility” means a facility (including associated buildings and equipment) used for peaceful purposes in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or interference with such facility could lead to the release of significant amounts of radiation or radioactive material; 25

“nuclear material” means —

(a) plutonium except plutonium with an isotopic concentration of plutonium-238 exceeding 80%; 30

(b) uranium-233;

(c) uranium containing uranium-233 or uranium-235 or both in such an amount that the abundance ratio of the sum of those isotopes to uranium-238 is greater than the ratio of uranium-235 to uranium-238 occurring in nature;

(d) uranium with an isotopic concentration equal to that occurring in nature; or

(e) any material containing one or more of the foregoing,

that is used for peaceful purposes, but does not include uranium in the form of ore or ore-residue.

(2) For the purposes of subsection (1) —

(a) material is not used for peaceful purposes if it is used or retained for military purposes; and

(b) a facility is not used for peaceful purposes if it contains any nuclear material which is used or retained for military purposes.

(3) If in any proceedings a question arises whether any material or facility was used for peaceful purposes, a certificate issued by the Minister and stating that it was, or was not, so used at a time specified in the certificate, shall be prima facie evidence of that matter.

(4) This Part does not apply to —

(a) the activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law; or

(b) activities undertaken by military forces of a State in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.”; and

(b) by inserting, immediately after section 26D, the following sections:

“Use, etc., of nuclear material to cause damage to environment

26DA. Any person who, without lawful authority, receives, possesses, uses, transfers, alters, disposes of, or disperses nuclear material, where the act causes or is likely to cause substantial damage to the environment, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to life imprisonment.

Acts against nuclear facilities

26DB.—(1) Any person who —

(a) commits an act that is directed against a nuclear facility, or that interferes with the operation of a nuclear facility; and

(b) does so intending that the act will cause, or knowing that the act is likely to cause —

(i) death or serious injury to any person; or

(ii) substantial damage to property or to the environment,

by exposure to radiation or release of radioactive substances,

shall be guilty of an offence.

(2) Any person who is guilty of an offence under subsection (1) shall, on conviction —

(a) except in the cases referred to in paragraphs (b) and (c), be liable to imprisonment for a term which may extend to life imprisonment;

(b) if the person had intended to cause serious injury to any person knowing that the injury is likely to cause his death, and death is caused, be subject

to the same punishment as an act under section 300(b) of the Penal Code (Cap. 224); or

- (c) if the person had intended to cause death to any person and death is caused, be subject to the same punishment as an act under section 300(a) of the Penal Code.

Threats to commit offence under section 26DA or 26DB

26DC. Any person who threatens to —

- (a) use nuclear material to cause substantial damage to the environment; or
 (b) commit an offence under section 26DB,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term which may extend to 10 years.

Export or import of nuclear material: extended jurisdiction

26DD.—(1) Any person who, outside Singapore —

- (a) unlawfully exports nuclear material from one country to another; or
 (b) unlawfully imports nuclear material into one country from another,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) A person guilty of an offence under this section may be proceeded against, charged, tried and punished as if the offence is committed in Singapore.

(3) In subsection (1) —

- (a) an export of nuclear material from a country; or

(b) an import of nuclear material into a country, is unlawful if it is contrary to any prohibition or restriction on the export or import (as the case may be) of nuclear material having effect under or by virtue of the law of that country. 5

(4) A statement in a certificate issued by or on behalf of the government of a country outside Singapore to the effect that a particular export or import of nuclear material is contrary to such a prohibition or restriction having effect under or by virtue of the law of that country, shall be prima facie evidence that the export or import is unlawful for the purposes of subsection (3).” 10

(3) Section 26E(2) of the principal Act in force immediately before the commencement of this subsection is amended by deleting the words “section 26B” in paragraph (a) and substituting the words “section 26B, 26DA or 26DB”. 15

(4) Section 26G(2) of the principal Act in force immediately before the commencement of this subsection is amended by deleting the definition of “relevant offence” and substituting the following definition: 20

“ “relevant offence”, in relation to a Convention country, means —

- (a) an offence against the law of that country that consists of or includes conduct which, if it had occurred in Singapore, would have constituted a nuclear offence; or 25
- (b) an offence against the law of that country that consists of or includes conduct which would constitute a nuclear trafficking offence.”.

(5) Section 26H(9) of the principal Act in force immediately before the commencement of this subsection is amended by deleting the definition of “relevant offence” and substituting the following definition: 30

“ “relevant offence” —

5 (a) in relation to a Convention country that is a Party to the amendments adopted in Vienna on 8th July 2005 to the Nuclear Material Convention, means —

10 (i) an offence against the law of that country where the act or omission constituting the offence or the equivalent act or omission would, if it took place in Singapore —

(A) constitute a nuclear offence; or

15 (B) be such an offence if the description concerned contained a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence; or

20 (ii) an offence against the law of that country where the act or omission constituting the offence or the equivalent act or omission would —

25 (A) constitute a nuclear trafficking offence; or

30 (B) be such an offence if the description concerned contained a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence; or

- (b) in relation to any other Convention country, means an offence against the law of that country where the act or omission constituting the offence or the equivalent act or omission would, if it took place in Singapore — 5
- (i) constitute a nuclear offence, other than an offence under section 26DA, 26DB or 26DC or any offence referred to in paragraph (c), (d) or (e) of the definition of “nuclear offence” in section 2(1) as it relates to any of those sections; or 10
 - (ii) be such an offence if the description concerned contained a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence.”. 15

New section 40A 20

10. The principal Act is amended by inserting, immediately after section 40, the following section:

“Cost of enforcement

40A. Where a person has been convicted by a court for an offence under section 5 or 6 or under Part VIIIA, the court may order that person to pay reasonable costs of any enforcement action taken by an authorised officer in respect of the offence, including any cost of storage of the subject-matter of the offence or anything used in the commission of the offence.”. 25

Amendment of section 42 30

11. Section 42 of the principal Act is amended —

- (a) by deleting the words “the Schedule” in subsection (1) and substituting the words “the First or Second Schedule”; and

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

Amendment of section 43

12. Section 43 of the principal Act is amended —

- 5 (a) by deleting paragraph (i) of subsection (1) and substituting the following paragraph:

10 “(i) requiring persons who are exposed or are likely to be exposed to the risk of disease due to radiation from any radioactive substance or irradiating apparatus to submit to screening and decontamination procedures by such persons as may be approved by the Director-General, as well as to medical examinations, including blood tests;”;

- 15 (b) by inserting, immediately after the words “not exceeding \$50,000” in subsection (1)(t), the words “or an imprisonment term not exceeding 6 months or both”; and

- (c) by inserting, immediately after subsection (2), the following subsection:

20 “(3) Without prejudice to the generality of subsection (1), the Agency may, with the approval of the Minister, make regulations for the purposes of implementing the Nuclear Material Convention, including for or with respect to any of the matters referred to in subsection (1), as well as to prescribe measures for the physical protection of a nuclear facility within the meaning of the Convention, including licensing the operation of such facility.”.

25

Renaming of Schedule and new Second Schedule

30 **13.** The principal Act is amended —

- (a) by renaming the existing Schedule as the First Schedule; and
- (b) by inserting, immediately after the First Schedule, the following Schedule:

“SECOND SCHEDULE

Sections 2(1), 26C(1),
26E(2)(b) and 42

ENHANCED PUNISHMENTS FOR OFFENCES COMMITTED IN RELATION TO NUCLEAR MATERIAL		
<i>Offence under Penal Code</i>	<i>Substituted imprisonment term</i>	
1. Section 379 (Theft)	Term which may extend to 5 years	5
2. Section 380 (Theft in dwelling-house, etc.)	Term which may extend to 10 years	10
3. Section 381 (Theft by clerk or servant of property in possession of master)	Term which may extend to 10 years	
4. Section 382 (Theft after preparation made for causing death or hurt in order to commit theft)	Term which may extend to 15 years	15
5. Section 384 (Extortion)	Term of not less than 3 years and not more than 10 years	20
6. Section 385 (Putting person in fear of harm in order to commit extortion)	Term of not less than 3 years and not more than 8 years	25
7. Section 386 (Extortion by putting a person in fear of death or grievous hurt)	Term of not less than 3 years and not more than 15 years	
8. Section 387 (Putting person in fear of death or of grievous hurt in order to commit extortion)	Term of not less than 3 years and not more than 10 years	30

	<i>Offence under Penal Code</i>	<i>Substituted imprisonment term</i>
5	9. Section 388 (Extortion by threat of accusation of an offence punishable with death, or imprisonment, etc.)	Term which may extend to 15 years
10	10. Section 389 (Putting person in fear of accusation of offence, in order to commit extortion)	Term which may extend to 15 years
15	11. Section 392 (Robbery committed at or after 7 a.m. and at or before 7 p.m.)	Term of not less than 3 years and not more than 15 years
	12. Section 392 (Robbery committed after 7 p.m. and before 7 a.m.)	Term of not less than 5 years and not more than 20 years
20	13. Section 393 (Attempt to commit robbery)	Term of not less than 3 years and not more than 10 years
	14. Section 394 (Voluntarily causing hurt in committing robbery)	Term of not less than 8 years and not more than 30 years
25	15. Section 395 (Punishment for gang-robbery)	Term of not less than 8 years and not more than 30 years
30	16. Section 399 (Making preparation to commit gang-robbery)	Term of not less than 5 years and not more than 15 years
	17. Section 402 (Assembling for purpose of committing gang-robbery)	Term which may extend to 10 years
35	18. Section 403 (Dishonest misappropriation of property)	Term which may extend to 3 years

<i>Offence under Penal Code</i>	<i>Substituted imprisonment term</i>	
19. Section 406 (Criminal breach of trust)	Term which may extend to 10 years	
20. Section 407 (Criminal breach of trust by carrier, etc.)	Term which may extend to 20 years	5
21. Section 408 (Criminal breach of trust by clerk or servant)	Term which may extend to 20 years	
22. Section 409 (Criminal breach of trust by public servant, or by banker, merchant, or agent)	Term which may extend to 30 years	10
23. Section 417 (Cheating)	Term which may extend to 5 years	15
24. Section 418 (Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect)	Term which may extend to 8 years	20
25. Section 419 (Cheating by personation)	Term which may extend to 8 years	25
26. Section 420 (Cheating and dishonestly inducing delivery of property)	Term which may extend to 15 years	
27. Section 468 (Forgery for purpose of cheating)	Term which may extend to 15 years.	30

”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Radiation Protection Act (Cap. 262) primarily to implement the Convention on the Physical Protection of Nuclear Material (referred to as the Nuclear Material Convention) as well as the amendments to it that are adopted on 8th July 2005 (referred to as the 2005 Amendments). The Bill also makes other amendments to the Act to better regulate dealings with radioactive materials and irradiating apparatuses, to facilitate the recovery of enforcement costs from persons convicted of certain offences, and to enhance safety procedures for persons exposed to radiation.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to expand the scope of the Act to include implementing the Nuclear Material Convention.

Clause 3 amends section 2 (Interpretation) to introduce definitions of various terms for the purposes of the new Part VIIIA, which is inserted to implement the Nuclear Material Convention. Section 2 is being amended twice. The first set of amendments is to implement the Convention before it is amended by the 2005 Amendments. The second set of amendments is to implement the Convention after it is amended by the 2005 Amendments. The 2005 Amendments have yet to enter into force.

Clause 4 inserts a new section 2A to provide that certain provisions of the Act bind the Government, on account of the fact that some departments of the Government will operate or use radioactive materials and irradiating apparatuses when carrying out official duties and functions. The provisions that bind the Government include those controlling the possession, use and other dealings with radioactive materials and irradiating apparatuses, provisions for safeguarding the health and safety of employees who may be exposed to radiation, those for the disposal of radioactive waste, and those for the keeping of records and the provision of information to the Director-General of Environmental Protection (the Director-General).

Clauses 5 and 6 amend sections 5 (Control of import, export, etc., of radioactive materials) and 6 (Control of import, export, etc., of irradiating apparatus), respectively, to increase, from 2 to 5 years, the maximum imprisonment term for importing, exporting, keeping, having in possession or under control, using, manufacturing, producing or dealing in radioactive materials or irradiating apparatus, or transporting radioactive materials, without a licence or contrary to the terms of a licence.

Clause 7 amends section 16 (Power to obtain information and documents) to enable the Director-General to require persons to provide information and documents to him if such information and documents are required to be given to another State or an international organisation under the Nuclear Material Convention.

Clause 8 amends section 17 (Confidentiality) to enable information obtained pursuant to the Act to be disclosed without breach of the duty of secrecy under that section if such disclosure is for the purpose of the Nuclear Material Convention.

Clause 9 introduces a new Part VIIIA which criminalises various acts for the purposes of the Nuclear Material Convention. Again, the Act is amended twice to implement the Convention before it is amended by the 2005 Amendments, and to implement the Convention after it is so amended.

The first set of amendments comprises new sections 26A to 26H.

The new section 26A introduces a definition of “nuclear material” which is the same as that in the Nuclear Material Convention.

The new section 26B makes it an offence to receive, possess, use, transfer, alter, dispose of or disperse nuclear material without lawful authority which causes or is likely to cause death, serious injury or substantial property damage.

The new section 26C read with the new Second Schedule (inserted by clause 13) enhances the imprisonment terms for various property offences under the Penal Code (Cap. 224) where the offence is committed in relation to nuclear material.

The new section 26D makes it an offence to threaten to use nuclear material to cause death, serious injury or substantial property damage, or to threaten to commit theft or robbery involving nuclear material, in order to compel a person, international organisation or any government to do or refrain from doing an act.

The new section 26E requires persons with information that is of material assistance in the prevention of an offence under the new section 26B, or a property offence under the Penal Code involving nuclear material, to disclose the information to a police officer. It also requires persons with information that is of material assistance in securing the arrest, prosecution or conviction of a person involved in committing, preparing or instigating such an offence to disclose the information to a police officer.

The new section 26F extends Singapore jurisdiction to deal with a nuclear offence committed anywhere outside Singapore. A nuclear offence is defined as an offence under the new section 26B or 26D, or a property offence under the Penal Code in relation to nuclear material, any abetment, conspiracy, attempt, or participation in such offence, or an act contributing to such offence in furtherance of a common intention.

The new section 26G provides that in the provision of mutual legal assistance to a foreign country for a criminal matter involving an offence that corresponds to a nuclear offence, that offence will be deemed not to be an offence of a political character. This is because the Mutual Assistance in Criminal Matters Act (Cap. 190A) prohibits assistance to be given if the Attorney-General opines that the offence is of a political character.

The new section 26H provides that —

- (a) nuclear offences will be extraditable crimes;
- (b) offences of a declared Commonwealth country that correspond to nuclear offences are extradition crimes in relation to that country;
- (c) where there is no extradition treaty in force between Singapore and a Convention country that is not a declared Commonwealth country, a notification may be made under section 4 of the Extradition Act applying that Act as if there were an extradition treaty between them, and in that event, the Extradition Act will apply to that country as if the only extradition crimes within the meaning of that Act were offences of that country that correspond to nuclear offences; and
- (d) where there is an extradition treaty in force between Singapore and a Convention country but the treaty does not provide for the extradition of persons accused of or convicted of an offence of that country that corresponds to a relevant offence, a notification may be made under section 4 of the Extradition Act applying that Act as if the treaty provided for that matter, and in that event any limitation, condition, exception or qualification specified in any notification or Order in Council that prevents such offence from being considered an extradition crime will be disregarded in the application of that Act to the country.

The second set of amendments repeals and re-enacts section 26A inserted under the first set of amendments, introduces new sections 26DA to 26DD, and amends sections 26E, 26G and 26H inserted under the first set of amendments.

The re-enacted section 26A introduces definitions for expressions used in the new sections 26DA to 26DD.

The new section 26DA makes it an offence to receive, possess, use, transfer, alter, dispose of or disperse nuclear material without lawful authority where the act causes or is likely to cause substantial damage to the environment.

The new section 26DB makes it an offence to do an act against a nuclear facility or that interferes with the operation of a nuclear facility, intending that the act causes or knowing that the act is likely to cause death, serious injury or substantial property or environmental damage.

The new section 26DC makes it an offence to threaten to use nuclear material to cause substantial damage to the environment or to commit an offence under the new section 26DB.

The new section 26DD extends Singapore jurisdiction to deal with the unlawful export or import of nuclear material occurring in another country.

The new section 26E is amended to extend it to the offences under the new sections 26DA and 26DB.

The new sections 26G and 26H are amended to change the definitions of “relevant offence” in those sections. Relevant offences are the foreign offences in respect of which mutual legal assistance or extradition assistance may be given to a Convention country. The term now includes a foreign offence that corresponds to the various new offences as well as the inchoate offence of and any participation in those offences. However, in the case of section 26H, the enlarged scope of the term will not apply to Convention countries that are not Parties to the 2005 Amendments. This is so that extradition assistance for offences under the 2005 Amendments will only be extended to countries which are Parties to the 2005 Amendments.

Clause 10 inserts a new section 40A to enable enforcement costs to be recovered from a person convicted of certain offences under the Act.

Clause 11 makes consequential amendments to section 42 (Amendment of Schedule) arising from the insertion of the new Second Schedule by clause 13.

Clause 12 amends section 43 (Regulations) —

- (a) to allow regulations to be made to enable screening and decontamination of persons exposed or likely to be exposed to the risk of disease due to radiation (e.g. inbound passengers from places which had nuclear accidents);
- (b) to allow regulations to be made to impose an imprisonment term for a contravention of a regulation; and
- (c) to allow regulations to be made to implement the Nuclear Material Convention.

Clause 13 inserts a new Second Schedule which sets out enhanced punishments for property offences committed in relation to nuclear material.

EXPENDITURE OF PUBLIC MONEY

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