

Registration of Criminals (Amendment) Bill

Bill No. 8/2016.

Read the first time on 29 January 2016.

A BILL

i n t i t u l e d

An Act to amend the Registration of Criminals Act (Chapter 268 of the 1985 Revised Edition).

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

Short title and commencement

1. This Act is the Registration of Criminals (Amendment) Act 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 8

2. Section 8 of the Registration of Criminals Act (called in this Act the principal Act) is amended by deleting paragraph (a) and substituting the following paragraph:

- 10 “(a) take or cause to be taken the finger impressions and photographs of any person who is accused of any crime and who —
- (i) is under arrest or in lawful custody; or
 - (ii) is released on bail or personal bond, whether by a court or otherwise;”.

15 Amendment of section 13B

3. Section 13B(1) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

- 20 “(a) is accused of any crime and —
- (i) is under arrest or in lawful custody; or
 - (ii) is released on bail or personal bond, whether by a court or otherwise;”.

New section 13I

4. The principal Act is amended by inserting, immediately after section 13H, the following section:

25 “Providing register information to foreign law enforcement agency

30 **13I.**—(1) A Singapore designated authority may, pursuant to a crime prevention exchange of information arrangement or upon receiving a request from a foreign law enforcement agency of a non-participating foreign country, transmit register information

about an individual to a foreign law enforcement agency if the Singapore designated authority is satisfied that —

- (a) the register information is requested for one or more of the following purposes only:
 - (i) comparing information transmitted and identifying matches for the investigation of a matter relating to the foreign country of the foreign law enforcement agency, or proceedings in respect of that matter; 5
 - (ii) assisting the foreign country of the foreign law enforcement agency to decide whether to make a request under the Mutual Assistance in Criminal Matters Act (Cap. 190A) or a requisition under the Extradition Act (Cap. 103); 10
 - (iii) a purpose prescribed; 15
- (b) the foreign law enforcement agency has given an appropriate undertaking in relation to the retention, use and destruction of the register information, including the matters in subsection (2);
- (c) it is, having regard to all of the following, appropriate in all the circumstances of the case to do so: 20
 - (i) the likely effect of transmission on any criminal investigation or proceedings in a Singapore court;
 - (ii) the likely effect of transmission on the safety of the individual to whom the register information to be disclosed relates, or of any other person in Singapore; 25
 - (iii) the public interest of Singapore; and
- (d) the foreign law enforcement agency is able to comply with conditions prescribed for transmission of information under this section, and any other conditions as the Singapore designated authority may impose specially in relation to the transmission. 30

(2) For the purposes of subsection (1)(b), the foreign law enforcement agency concerned must undertake —

(a) that the register information the foreign law enforcement agency receives from a Singapore designated authority about an individual under this section —

(i) will be kept and maintained using such methods and technologies as will ensure that persons not authorised to access the information cannot access the information; and

(ii) will not be used for a purpose not specified in or prescribed for the purpose of subsection (1)(a); and

(b) that the foreign law enforcement agency will comply with the conditions referred to in subsection (1)(d).

(3) A Singapore designated authority may refuse to further transmit any register information about an individual to a foreign law enforcement agency if the Singapore designated authority is of the opinion that the foreign law enforcement agency has failed to comply with its undertaking given under subsection (1)(b) and does not take steps to rectify the non-compliance.

(4) This section applies despite any duty of confidence, or any written law relating to confidentiality or secrecy, to the contrary.

(5) To avoid doubt, sections 4 and 5 do not apply to any information transmitted by a foreign law enforcement agency to a Singapore designated authority.

(6) In this section, unless the context otherwise requires —

“crime prevention exchange of information arrangement” means an arrangement between a foreign country and the Government under which —

(a) register information is to be transmitted from a Singapore designated authority to a foreign law enforcement agency in the foreign country; and

(b) information similar to register information is to be transmitted from a foreign law enforcement agency of the foreign country to a Singapore designated authority,

for the purpose of preventing and combating serious crime and identity fraud, and for the use and keeping of information transmitted under the arrangement; 5

“foreign country” means any country, or territory, other than Singapore;

“foreign law enforcement agency” — 10

(a) in relation to a participating foreign country, means an official or an authority of the participating foreign country, designated by the participating foreign country to make a request to a Singapore designated authority for register information; 15

(b) in relation to any other foreign country, means an official or an authority of the foreign country, exercising functions corresponding to —

(i) the Singapore Police Force; 20

(ii) the Central Narcotics Bureau;

(iii) the Immigration & Checkpoints Authority;
or

(iv) any other similar authority prescribed,

and whom the Singapore designated authority is satisfied is authorised to make a request to the Singapore designated authority for register information; 25

“foreign offence” means any offence against the law of a foreign country which, if the conduct constituting the offence had occurred in Singapore, would amount to an offence against the law of Singapore punishable with imprisonment for a term exceeding 12 months; 30

“investigation of a matter”, in relation to a foreign country, means —

- (a) an investigation of a foreign offence;
- (b) an investigation of a missing person in that foreign country;
- (c) an investigation for the purpose of identifying a deceased person in that foreign country; or
- (d) an investigation to prevent the commission of a foreign offence;

“law of a foreign country” includes a reference to the law in force in any part of that country;

“participating foreign country” means —

- (a) a member country of the International Criminal Police Organisation; or
- (b) a foreign country whose government has a crime prevention exchange of information arrangement with the Government;

“proceedings” means proceedings in a court of law or in which judicial power is exercised (whether of a civil or criminal nature), and includes proceedings (whether or not in a court) in which evidence may be taken on oath;

“register information” means the registrable particulars of an individual, and any other particulars about the individual recorded in the register or under section 9, whether recorded before, on or after the date of commencement of section 4 of the Registration of Criminals (Amendment) Act 2016, but excludes registrable particulars and other particulars —

- (a) about an individual who is not convicted by a court in Singapore of a crime;
- (b) about an individual with respect to whom a direction by the Commissioner of Police is given under section 7; or

(c) about an individual whose conviction in the register is spent or is treated as spent under Part IIA;

“Singapore designated authority” means an individual appointed under section 3 who is specially designated by the Minister to disclose information under this section.”

5

EXPLANATORY STATEMENT

This Bill seeks to amend the Registration of Criminals Act (Cap. 268) to allow for certain information of an individual, which are recorded under the Act, to be disclosed to a foreign law enforcement agency. The disclosure of the information (called register information) to a foreign country will be subject to certain safeguards.

The Bill also makes certain amendments to the Act relating to the taking of finger impressions and body samples.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 8 which currently allows an authorised officer to take or cause to be taken the finger impressions and photographs of any person under arrest who is accused of any crime. The amendment allows an authorised officer to exercise this power in other situations, namely, in relation to any person who is accused of any crime and who is in lawful custody, or is released on bail or personal bond.

Clause 3 amends section 13B(1) which currently allows body samples to be taken from any person who is arrested and accused of any crime. The amendment allows this power to be exercised in other situations, namely, in relation to a person accused of any crime and who is in lawful custody, or is released on bail or personal bond.

Clause 4 inserts a new section 13I to allow a Singapore designated authority to transmit register information about an individual (pursuant to a crime prevention exchange of information arrangement between Singapore and a foreign country or territory, or upon receiving a request from a foreign law enforcement agency of a non-participating foreign country) to a foreign law enforcement agency if the Singapore designated authority is satisfied of certain matters.

First, a Singapore designated authority must be satisfied that the register information is requested for one or more of the following purposes only:

- (a) comparing information transmitted and identifying matches for the investigation of a matter relating to the foreign country of the foreign law enforcement agency, or proceedings in respect of that matter;
- (b) assisting the foreign country of the foreign law enforcement agency to decide whether to make a request under the Mutual Assistance in Criminal Matters Act (Cap. 190A) or a requisition under the Extradition Act (Cap. 103);
- (c) a purpose prescribed.

Second, a Singapore designated authority must be satisfied that the foreign law enforcement agency has given an appropriate undertaking in relation to the retention, use and destruction of the register information.

The mandatory matters in the undertaking are elaborated on in the new section 13I(2). These are keeping and maintaining the register information in such manner as to prevent unauthorised access, using the register information only for certain purposes, and complying with certain conditions referred to in the new section 13I(1)(d).

Third, a Singapore designated authority must be satisfied that, having regard to the certain matters, it is appropriate in all the circumstances of the case to transmit the register information. These matters include —

- (a) the likely effect of transmission on any criminal investigation or proceedings in a Singapore court;
- (b) the likely effect of transmission on the safety of the individual to whom the register information to be disclosed relates, or of any other person in Singapore; and
- (c) the public interest of Singapore.

Fourth, a Singapore designated authority must be satisfied that the foreign law enforcement agency is able to comply with conditions prescribed for transmissions of information under the new section 13I, and any other conditions that the Singapore designated authority may impose specially in relation to the transmission.

The new section 13I(3) allows a Singapore designated authority to refuse to further transmit any register information about an individual to a foreign law enforcement agency if the Singapore designated authority is of the opinion that the foreign law enforcement agency has failed to comply with its undertaking and does not take steps to rectify the non-compliance.

The new section 13I(4) states that the new section 13I applies despite any duty of confidence, or any written law relating to confidentiality or secrecy, to the contrary.

The new section 13I(5) clarifies that sections 4 and 5 (relating to keeping a register of persons convicted outside Singapore) do not apply to any information transmitted by a foreign law enforcement agency to a Singapore designated authority.

The new section 13I(6) contains the definitions of the terms used in the new section 13I.

EXPENDITURE OF PUBLIC MONEY

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