

Residential Property (Amendment) Bill

Bill No. 30/2010.

Read the first time on 18th October 2010.

A BILL

intituled

An Act to amend the Residential Property Act (Chapter 274 of the 2009 Revised Edition) and to make related amendments to the Land Titles Act (Chapter 157 of the 2004 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 Residential Property (Amendment) Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2(1) of the Residential Property Act (referred to in this Act as the principal Act) is amended by inserting, immediately after the words “section 3(6),” in the definition of “notice to attach and sell”, “3A(3),”.

Amendment of section 3

10 3. Section 3 of the principal Act is amended —

(a) by deleting the words “10 years of the date of the death of the deceased person” in subsection (4) and substituting the words “5 years from the date of the death of the deceased person, or within any extension thereof allowed under subsection (12),”;
15 and

(b) by inserting, immediately after subsection (12), the following subsections:

“(12A) The Controller may, when allowing an extension of time under subsection (12), impose such conditions as he
20 thinks fit, including a condition that the legal personal representatives shall provide such security as may be determined by the Controller for the purposes of complying with any condition imposed by the Controller.

(12B) If the legal personal representatives fail to comply
25 with any of the conditions imposed by the Controller under subsection (12A), the Controller may forfeit (in part or whole) the security provided by the legal personal representatives under this section, after giving 21 days’ notice in writing to the legal personal representatives of his intention to forfeit the
30 security and the grounds thereof.

(12C) The legal personal representatives may, upon receipt of the notice under subsection (12B), appeal to the Minister within 3 months from the date of that notice.

(12D) The Minister may determine an appeal under subsection (12C) by confirming or varying the Controller's decision to forfeit the security, or by ordering the refund (in part or whole) of any security forfeited under subsection (12B); and the decision of the Minister on any such appeal shall be final and shall not be called in question in any court."

New section 3A

4. The principal Act is amended by inserting, immediately after section 3, the following section:

"Residential property held by former citizens and permanent residents

3A.—(1) Where an individual acquires any residential property (other than non-restricted residential property) or any estate or interest therein as a citizen or permanent resident of Singapore and subsequently —

- (a) renounces or is deprived of his Singapore citizenship on or after the date of commencement of section 4 of the Residential Property (Amendment) Act 2010; or
- (b) cancels his Singapore permanent residence on or after the date of commencement of section 4 of the Residential Property (Amendment) Act 2010 other than on the ground of becoming a citizen of Singapore, or has his Singapore permanent residence terminated by the Government on or after that date,

that individual shall sell that residential property or estate or interest therein to a citizen of Singapore or an approved purchaser within a period of 2 years from the date of cessation of his Singapore citizenship or Singapore permanent residence, as the case may be, or within such longer period as the Minister may allow before the end of those 2 years.

(2) Any individual who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) Without prejudice to subsection (2), where any individual referred to in subsection (1) does not sell his residential property or his estate or interest therein within the period allowed under subsection (1), the Minister may issue to the Controller a notice to attach and sell the residential property, and a copy of that notice shall be served on —

(a) the individual concerned and every other owner of the residential property; and

(b) each subsisting mortgagee or chargee (if any) who appears as such in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be.”.

Amendment of section 4

5. Section 4 of the principal Act is amended —

(a) by deleting “\$10,000” in subsection (3) and substituting “\$100,000”; and

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

“(6) Any foreign person who fails to comply with the Controller’s notice referred to in subsection (4) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$100,000; and

(b) in respect of a continuing contravention, to an additional fine not exceeding \$500 for every day or part thereof the contravention continues,

and if the contravention continues after the conviction, the person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$1,000 for every day or part thereof during which the contravention continues after conviction.

(6A) For the purposes of subsection (6), where —

(a) an act or thing is required or directed to be done within a particular period specified in subsection (4) or any extension thereof granted under subsection (5);

(b) the failure to do that act or thing within the period or extension referred to in paragraph (a) constitutes an offence; and

(c) that act or thing is not done within the period or extension referred to in paragraph (a),

the obligation to do that act or thing shall continue, notwithstanding that that period or extension has expired, until that act or thing is done; and a person shall be guilty of a separate offence in respect of each day (including the day of a conviction for any such offence or any later day) or part thereof during which the person continues to refuse or fail to comply with that requirement or direction.

(6B) The court shall, in respect of any defendant charged with committing any offence under subsection (6) —

(a) take into account any confiscation order made under section 4A before imposing any fine on the defendant; and

(b) subject to paragraph (a), leave the confiscation order out of account in determining the appropriate sentence or other manner of dealing with the defendant.”.

New section 4A

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

“Confiscation of benefits of offence under section 4(6)

4A.—(1) Where a defendant is convicted of any offence under section 4(6), the court shall, on the application of the Public Prosecutor, make a confiscation order against the defendant in respect of benefits derived by him from the commission of the offence, if the court is satisfied that such benefits have been so derived.

(2) Where the court is satisfied that benefits have been derived by the defendant from the commission of any offence under section 4(6), the court shall, before sentencing or otherwise dealing with him in respect of the offence concerned, determine in accordance with

subsections (4) to (8) the amount to be recovered in his case by virtue of this section.

(3) Subject to subsection (7), the benefits derived by a defendant from the commission of any offence under section 4(6) shall be —

- 5 (a) any estate or interest in the development (including any income accruing from that estate or interest) held by the defendant in contravention of section 4(6); or
- (b) where that estate or interest is disposed of before conviction, the difference between —
- 10 (i) the sale price or market value of that estate or interest, whichever is the higher; and
- (ii) the price paid by the defendant for the purchase or acquisition of that estate or interest.

15 (4) The amount to be recovered from the defendant under a confiscation order under this section shall be the amount the court assesses to be the value of the benefits derived by the defendant from the commission of any offence under section 4(6).

(5) For the purposes of this section —

- 20 (a) the value of the benefits derived by a defendant from the commission of any offence under section 4(6) shall be the aggregate of the properties, estates and interests referred to in subsection (3)(a) or (b), as the case may be, relating to that defendant;
- 25 (b) the value of the estate or interest in the development referred to in subsection (3)(a) shall be the market value of the estate or interest at the date of the conviction or the date of the commission of the offence, whichever is the higher;
- (c) the market value of the estate or interest in the development referred to in subsection (3)(b)(i) shall be the market value of the estate or interest at the date of disposal; and
- 30 (d) in calculating the value of benefits derived by a defendant from the commission of any offence under section 4(6), any expenses or outgoings of the defendant in connection with the commission of the offence shall be disregarded.

(6) Any question of fact to be decided by a court in proceedings under this section shall be decided on a balance of probabilities.

(7) A benefit derived by a defendant convicted of any offence under section 4(6) shall not be taken into account if —

- 5 (a) a confiscation order against the defendant has been made in respect of that benefit under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A);
- 10 (b) a confiscation order against the defendant has previously been made under this section and that benefit is shown to the court to have been taken into account in determining the amount to be recovered under that order; or
- 15 (c) a confiscation order against any other defendant has previously been made under this section in relation to an offence committed in the same transaction as the offence by the first-mentioned defendant and that benefit (being an estate or interest referred to in subsection (3)(a)) is shown to the court to have been taken into account in determining the amount to be recovered under the order against that other
- 20 defendant.

(8) Any relevant evidence admitted in the proceedings against the defendant for any offence under section 4(6) shall, if the court thinks fit, be taken into account in determining the amount to be recovered under subsection (2).

25 (9) Subject to subsection (1), where a court orders the defendant to pay any amount under a confiscation order made under this section —

- 30 (a) section 319 of the Criminal Procedure Code 2010 (Act 15 of 2010) shall have effect as if that amount were a fine imposed on him by the court; and
- 35 (b) for the purposes of section 319(1)(b)(iv) of the Criminal Procedure Code 2010, the term for which the court may direct the defendant to be imprisoned in default of payment of any amount under the confiscation order shall be as follows:

- (i) if the amount does not exceed \$2 million — imprisonment for a term not exceeding 5 years; and
- (ii) if the amount exceeds \$2 million — imprisonment for a term not exceeding 10 years.

5 (10) Where —

- (a) a warrant to commit the defendant to prison is issued for a default in payment of an amount ordered to be paid under a confiscation order in respect of any offence under section 4(6); and
- 10 (b) at the time the warrant is issued, the defendant is liable to serve any term of imprisonment in respect of the offence, the term of imprisonment to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b).

15 (11) This section shall not apply in respect of any offence committed before the date of commencement of section 6 of the Residential Property (Amendment) Act 2010.”.

Amendment of section 6

7. Section 6(7) of the principal Act is amended —

- 20 (a) by deleting the word “and” at the end of paragraph (a);
- (b) by deleting paragraph (b) and substituting the following paragraphs:
 - 25 “(b) secondly, in payment of all financial penalties payable under this Act in respect of the residential property or land sold; and
 - (c) thirdly, in payment of the balance, in order of priority, to the foreign person who was the owner of the estate or interest in the residential property or land sold and any person having a prior interest to such owner or representative as shown in the relevant records in the Land Titles Registry or the Registry of Deeds of the Authority, as the case may be,”; and
- 30 (c) by deleting the words “paragraph (b)” in the penultimate line and substituting the words “paragraph (c)”.

Amendment of section 9

8. Section 9(6) of the principal Act is amended by deleting “\$50,000” in paragraphs (a) and (b) and substituting in each case “\$100,000”.

Amendment of section 22

5 **9.** Section 22 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsections:

10 “(2A) The Minister may, when extending the period under subsection (2), impose such conditions as he thinks fit, including a condition that the mortgagee shall provide such security as may be determined by the Minister for the purposes of complying with any condition imposed by the Minister.

15 (2B) If a mortgagee fails to comply with any of the conditions imposed by the Minister under this section, the Controller may forfeit (in part or whole) the security provided by the mortgagee under this section, after giving 21 days’ notice in writing to the mortgagee of his intention to forfeit the security and the grounds thereof.

20 (2C) A mortgagee may, upon receipt of the notice under subsection (2B), appeal to the Minister within 3 months from the date of that notice.

25 (2D) The Minister may determine an appeal under subsection (2C) by confirming or varying the Controller’s decision to forfeit the security, or by ordering the refund (in part or whole) of any security forfeited under subsection (2B); and the decision of the Minister on any such appeal shall be final and shall not be called in question in any court.”; and

(b) by inserting, immediately after the words “Subsections (2)” in subsection (4), the words “, (2A), (2B), (2C), (2D)”.

Amendment of section 23

30 **10.** Section 23(4) of the principal Act is amended by deleting “\$50,000” and substituting “\$100,000”.

Amendment of section 25

11. Section 25 of the principal Act is amended —

(a) by inserting, immediately after paragraph (a) of subsection (7), the following paragraph:

5 “(aa) that the applicant shall not sell, assign, transfer or otherwise dispose of his or its estate or interest in the residential property within such period as may be specified by the Minister;”;

10 (b) by inserting, immediately after the words “the Minister may forfeit” in subsection (7A), the words “(in part or whole)”;

(c) by deleting the words “within 3 months of such notice” in subsection (7B) and substituting the words “within 3 months from the date of that notice”; and

(d) by deleting subsection (8).

15 New sections 25A, 25B and 25C

12. The principal Act is amended by inserting, immediately after section 25, the following sections:

“Minister may direct Controller to lodge caveat

20 **25A.**—(1) Where the Minister has granted his approval under section 25 to any foreign person to purchase, acquire or retain any estate or interest in any residential property (other than non-restricted residential property) subject to the condition that the foreign person shall not sell, assign, transfer or otherwise dispose of that estate or interest in that residential property within the period specified by the
25 Minister, the Minister may direct the Controller to lodge a caveat, on the relevant volume and folio of the land-register in the Land Titles Registry of the Authority, forbidding the registration under the Land Titles Act (Cap. 157) during that period of any dealing affecting that residential property against which the caveat is directed unless the
30 Controller, or some person nominated by him in the caveat, has consented in writing to such registration.

(2) The Controller shall withdraw the caveat referred to in subsection (1) upon the expiry of the period specified by the Minister,

unless the Minister directs that the caveat be withdrawn at any time earlier.

Penalty for contravening condition referred to in section 25(7)(a)

5 **25B.**—(1) Where an approved purchaser, by lease or agreement, grants to another the right to occupy any residential property (other than non-restricted residential property) in contravention of any condition referred to in section 25(7)(a), the Controller may, by notice in writing, require the approved purchaser to pay, within a specified period, a financial penalty of such amount (as the Controller
10 thinks fit) not exceeding the highest of one of the following amounts:

(a) \$10,000;

(b) 3 times the amount of rental payable and collected —

(i) in any case where the lease or agreement was made before the date of commencement of section 12 of the Residential Property (Amendment) Act 2010 — during
15 the period of contravention falling on or after that date; or

(ii) in any other case — during the period of contravention; or

(c) 3 times the assessed rental reasonably expected to be collected for that residential property —

(i) in any case where the lease or agreement was made before the date of commencement of section 12 of the Residential Property (Amendment) Act 2010 — during
25 the period of contravention falling on or after that date; or

(ii) in any other case — during the period of contravention.

(2) The quantum of the financial penalty referred to in subsection (1) shall take into account any security provided by the approved purchaser under section 25(7)(b) and which has been forfeited under
30 section 25(7A) in respect of the same contravention of any condition referred to in section 25(7)(a).

(3) Where an approved purchaser is a company or a limited liability partnership, and the Controller is of the opinion that the failure of the approved purchaser to comply with any condition referred to in
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section 25(7)(a) was committed with the consent or connivance of, or was attributable to any neglect on the part of, any person who is a director of the company or a partner of the limited liability partnership, as the case may be, the Controller shall, together with the notice under subsection (1) to the approved purchaser, inform the person concerned of the Controller's opinion, and that person shall then be jointly and severally liable with the company or limited liability partnership to pay the financial penalty imposed under subsection (1).

(4) Any financial penalty payable by any approved purchaser or other person under subsection (1) or (3) shall be recoverable by the Controller as a debt due to the Controller from that approved purchaser or other person.

(5) In this section, "assessed rental", in relation to any residential property, means the market rental for that residential property as assessed by an independent valuer appointed by the Controller.

Penalty for failure to comply with other conditions imposed by Minister

25C. Where —

- (a) the Minister grants his approval under section 25 for an approved purchaser to purchase, acquire or retain any estate or interest in any residential property (other than non-restricted residential property), subject to any condition; and
- (b) the approved purchaser fails to comply with any such condition, other than a condition referred to in section 25(7)(a),

the approved purchaser shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction."

Amendment of section 26

13. Section 26 of the principal Act is amended —

- (a) by deleting the word “Minister” in subsection (1) and substituting the word “Controller”;
- (b) by deleting the words “Minister who may, in his discretion,” in subsection (3) and substituting the words “Controller who may, with the approval of the Minister,”;
- (c) by inserting, immediately after subsection (3), the following subsections:

“(3A) The conditions that the Controller may impose under subsection (3) shall include all or any of the following:

(a) that the applicant shall carry out and complete the development of any residential property retained by the applicant within such period as may be determined by the Controller;

(b) that the applicant —

(i) shall not sell, assign, transfer, sublease or otherwise dispose of such residential property or any part thereof in its vacant or undeveloped state without the prior approval of the Controller, which may be granted with or without conditions; or

(ii) shall sell all the flats or dwelling-houses in the development or, where the residential property comprises one or more buildings which have not been subdivided into units for sale, shall sell the whole development, to citizens or approved purchasers within a period of 2 years from the date of the issue by the relevant authority of a Temporary Occupation Permit or Certificate of Statutory Completion, whichever is the earlier, in respect of such flats, dwelling-houses or any of the buildings;

(c) that, where the applicant is a company, limited liability partnership or society, no person who holds any shares in the company or who is a partner in the limited liability partnership or member of the society shall, without the approval of the Controller (which

may be granted with or without conditions), sell, assign, transfer or otherwise dispose of any of his shares or any interest in such shares to any other person, or resign as such partner or member, as the case may be;

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(d) that the applicant shall provide such security as may be determined by the Controller for the purposes of complying with any condition imposed by the Controller;

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(e) that the applicant shall give an undertaking in writing to comply with the conditions imposed by the Controller.

(3B) Subject to subsections (3C) and (3D), the Controller may extend any period referred to in subsection (3A)(a) or (b)(ii) and may, in his discretion, dispense with the requirement to provide security referred to in subsection (3A)(d).

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(3C) The Controller may, when extending any period referred to in subsection (3A)(a) or (b)(ii), require the applicant to pay an extension charge of such amount as may be determined by the Controller.

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(3D) Any extension charge payable under subsection (3C) need not bear any relationship to the cost of considering an application for and granting an extension of any period referred to in subsection (3A)(a) or (b)(ii).

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(3E) Where an applicant has failed to comply with any condition imposed by the Controller, the Controller may do all or any of the following:

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(a) in the case of a condition the compliance with which security has been provided under subsection (3A)(d), the Controller may forfeit (in part or whole) the security provided by the applicant after giving 21 days' notice in writing to the applicant of his intention to forfeit the security and the grounds thereof;

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(b) in the case of any condition referred to in subsection (3A)(b)(i) relating to residential property or in

5 subsection (3A)(c) relating to shares in a company, the Controller may, by notice in writing, require the applicant to pay, within a specified period, a financial penalty of such amount (as the Controller thinks fit) not exceeding 50% of the market value of the residential property or shares concerned.

10 (3F) The quantum of the financial penalty required to be paid under subsection (3E)(b) shall take into account any security provided by the applicant under subsection (3A)(d) and which has been forfeited under subsection (3E)(a) in respect of the same contravention of any condition referred to in subsection (3A)(b) or (c).

15 (3G) Where the Controller is of the opinion that the failure of the applicant to comply with any condition referred to in subsection (3A)(b)(i) or (c) was committed with the consent or connivance of, or was attributable to any neglect on the part of any person who is a director, partner or member of the governing body or board of trustees of the applicant, as the case may be, the Controller shall, together with the notice under subsection (3E)(b) to the applicant, inform the person concerned of the Controller's opinion, and that person shall then be jointly and severally liable with the applicant to pay the financial penalty imposed under subsection (3E)(b).

20 (3H) Any financial penalty payable by any applicant or any other person under subsection (3E)(b) or (3G) shall be recoverable by the Controller as a debt due to the Controller from that applicant or other person.”;

(d) by inserting, immediately after subsection (4), the following subsections:

30 “(4A) Upon approving under subsection (3) the retention by an applicant of all or one or more of its residential properties subject to the condition referred to in subsection (3A)(b)(i), the Controller shall immediately inform the Registrar who shall enter —

35 (a) on the relevant volume and folio of the land-register in the Land Titles Registry of the Authority; or

(b) in the books or other records maintained at the Registry of Deeds of the Authority,

as the case may be, a notice warning persons dealing with the registered proprietor named therein that the registered proprietor is prohibited from selling, assigning, transferring, subleasing or otherwise disposing of the residential property comprised therein in its vacant or undeveloped state.

(4B) The Registrar shall cancel the notice of warning referred to in subsection (4A) if the Controller directs that the notice be cancelled; and the Controller shall make such a direction if he is satisfied that the Temporary Occupation Permit or the Certificate of Statutory Completion for the whole of the development has been issued by the relevant authority.

(4C) No claim shall be made by any person against the Registrar for any loss or damage suffered if the notice referred to in subsection (4A) is not entered on the land-register in the Land Titles Registry of the Authority or in the books or other records maintained at the Registry of Deeds of the Authority, as the case may be, or is cancelled pursuant to subsection (4B).”; and

(e) by inserting, immediately after subsection (5), the following subsection:

“(6) For the purpose of determining under subsection (3E) the financial penalty for contravening a condition, “market value” —

(a) in relation to residential property, means the market value of the residential property at the date of the contravention of the condition as assessed by an independent valuer appointed by the Controller; and

(b) in relation to shares in a company, means the market value of the shares at the date of the contravention of the condition.”.

Amendment of section 27

14. Section 27(1) of the principal Act is amended —

- (a) by inserting, immediately after the words “Where the Minister”, the words “or the Controller, as the case may be,”;
- (b) by deleting the words “imposed by the Minister”; and
- (c) by deleting the words “he may” and substituting the words “the Minister may”.

Amendment of section 28

15. Section 28 of the principal Act is amended —

- (a) by deleting the words “Minister (through the Controller)” in subsection (1) and substituting the word “Controller”;
- (b) by deleting the words “approval by the Minister” in subsection (1) and substituting the words “approval by the Controller”; and
- (c) by deleting subsections (2) to (5) and substituting the following subsections:

“(2) The Controller may, with the approval of the Minister, grant approval under subsection (1) subject to such conditions as the Controller thinks fit, including all or any of the following:

- (a) that the applicant shall carry out and complete the development of the land within such period as may be determined by the Controller;
- (b) that the applicant —
 - (i) shall not sell, assign, transfer, sublease or otherwise dispose of the land or any part thereof in its vacant or undeveloped state without the prior approval of the Controller, which may be granted with or without conditions; or
 - (ii) shall sell all the flats or dwelling-houses in the development or, where the land comprises one or more buildings which have not been subdivided into units for sale, shall sell the whole development, to citizens or approved purchasers within a period of 2 years from the date of the issue by the relevant authority of a Temporary Occupation Permit or Certificate of Statutory

Completion, whichever is the earlier, in respect of such flats, dwelling-houses or any of the buildings;

- 5 (c) that, where the applicant is a company, limited liability partnership or society, no person who holds any shares in the company or who is a partner in the limited liability partnership or member of the society shall, without the approval of the Controller (which may be granted with or without conditions), sell, assign, transfer or otherwise dispose of any of his shares or any interest in such shares to any other person, or resign as such partner or member, as the case may be;
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- (d) that the applicant shall provide such security as may be determined by the Controller for the purposes of complying with any condition imposed by the Controller;
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- (e) that the applicant shall give an undertaking in writing to comply with the conditions imposed by the Controller.
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(3) Subject to subsections (4) and (5), the Controller may extend any period referred to in subsection (2)(a) or (b)(ii) and may, in his discretion, dispense with the requirement to provide security referred to in subsection (2)(d).

25 (4) The Controller may, when extending any period referred to in subsection (2)(a) or (b)(ii), require the applicant to pay an extension charge of such amount as may be determined by the Controller.

30 (5) Any extension charge payable under subsection (4) need not bear any relationship to the cost of considering an application for and of granting an extension of any period referred to in subsection (2)(a) or (b)(ii).

35 (6) Where an applicant has failed to comply with any condition imposed by the Controller, the Controller may do all or any of the following:

5 (a) in the case of a condition the compliance with which security has been provided under subsection (2)(d), the Controller may forfeit (in part or whole) the security provided by the applicant after giving 21 days' notice in writing to the applicant of his intention to forfeit the security and the grounds thereof;

10 (b) in the case of any condition referred to in subsection (2)(b)(i) relating to land or in subsection (2)(c) relating to shares in a company, the Controller may, by notice in writing, require the applicant to pay, within a specified period, a financial penalty of such amount (as the Controller thinks fit) not exceeding 50% of the market value of the land or shares concerned.

15 (7) The quantum of the financial penalty required to be paid under subsection (6)(b) shall take into account any security provided by the applicant under subsection (2)(d) and which has been forfeited under subsection (6)(a) in respect of the same contravention of any condition referred to in
20 subsection (2)(b) or (c).

25 (8) Where an applicant is a company, limited liability partnership or society and the Controller is of the opinion that the failure of the applicant to comply with any condition referred to in subsection (2)(b)(i) or (c) was committed with the consent or connivance of, or was attributable to any neglect on the part of any person who is a director of the company, a partner of the limited liability partnership or a member of the governing body or board of trustees of the society, as the case may be, the Controller shall, together with the notice under
30 subsection (6)(b) to the applicant, inform the person concerned of the Controller's opinion, and that person shall then be jointly and severally liable with the company, limited liability partnership or society to pay the financial penalty imposed under subsection (6)(b).

35 (9) Any financial penalty payable by any applicant or any person under subsection (6)(b) or (8) shall be recoverable by the Controller as a debt due to the Controller from that applicant or person.

(10) Upon approving under subsection (1) a change of use by an applicant of its land subject to the condition referred to in subsection (2)(b)(i), the Controller shall immediately inform the Registrar who shall enter —

5 (a) on the relevant volume and folio of the land-register in the Land Titles Registry of the Authority; or

 (b) in the books or other records maintained at the Registry of Deeds of the Authority,

10 as the case may be, a notice warning persons dealing with the registered proprietor named therein that the registered proprietor is prohibited from selling, assigning, transferring, subleasing or otherwise disposing of the land in its vacant or undeveloped state.

15 (11) The Registrar shall cancel the notice of warning referred to in subsection (10) if the Controller directs that the notice be cancelled; and the Controller shall make such a direction if he is satisfied that the Temporary Occupation Permit or the Certificate of Statutory Completion for the whole of the development has been issued by the relevant authority.

20 (12) No claim shall be made by any person against the Registrar for any loss or damage suffered if the notice referred to in subsection (10) is not entered on the land-register in the Land Titles Registry of the Authority or in the books or other records maintained at the Registry of Deeds of the Authority,

25 as the case may be, or is cancelled pursuant to subsection (11).

(13) For the purpose of determining under subsection (6) the financial penalty for contravening a condition, “market value” —

30 (a) in relation to land, means the market value of the land at the date of the contravention of the condition as assessed by an independent valuer appointed by the Controller; and

35 (b) in relation to shares in a company, means the market value of the shares at the date of the contravention of the condition.”.

Amendment of section 28A

16. Section 28A of the principal Act is amended —

(a) by deleting the words “Minister through the Controller” in subsection (1)(i) and substituting the word “Controller”;

5 (b) by deleting the word “Minister” in subsection (1)(ii) and substituting the word “Controller”; and

(c) by deleting subsections (3), (4) and (5) and substituting the following subsections:

10 “(3) The Controller may, with the approval of the Minister, grant approval under subsection (1) subject to such conditions as the Controller thinks fit, including all or any of the following:

(a) that the applicant shall carry out and complete the development of the land within such period as may be determined by the Controller;

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(b) that the applicant —

(i) shall not sell, assign, transfer, sublease or otherwise dispose of the land or any part thereof in its vacant or undeveloped state without the prior approval of the Controller, which may be granted with or without conditions; or

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(ii) shall sell all the flats or dwelling-houses in the development or, where the land comprises one or more buildings which have not been subdivided into units for sale, shall sell the whole development, to citizens or approved purchasers within a period of 2 years from the date of the issue by the relevant authority of a Temporary Occupation Permit or Certificate of Statutory Completion, whichever is the earlier, in respect of such flats, dwelling-houses or any of the buildings;

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(c) that, where the applicant is a company, limited liability partnership or society, no person who holds any shares in the company or who is a partner in the limited liability partnership or member of the society

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shall, without the approval of the Controller (which may be granted with or without conditions), sell, assign, transfer or otherwise dispose of any of his shares or any interest in such shares to any other person, or resign as such partner or member, as the case may be;

(d) that the applicant shall provide such security as may be determined by the Controller for the purposes of complying with any condition imposed by the Controller;

(e) that the applicant shall give an undertaking in writing to comply with the conditions imposed by the Controller.

(4) Subject to subsections (5) and (6), the Controller may extend any period referred to in subsection (3)(a) or (b)(ii) and may, in his discretion, dispense with the requirement to provide security referred to in subsection (3)(d).

(5) The Controller may, when extending any period referred to in subsection (3)(a) or (b)(ii), require the applicant to pay an extension charge of such amount as may be determined by the Controller.

(6) Any extension charge payable under subsection (5) need not bear any relationship to the cost incurred in considering an application for and granting an extension of any period referred to in subsection (3)(a) or (b)(ii).

(7) Where an applicant has failed to comply with any condition imposed by the Controller, the Controller may do all or any of the following:

(a) in the case of a condition the compliance with which security has been provided under subsection (3)(d), the Controller may forfeit (in part or whole) the security provided by the applicant after giving 21 days' notice in writing to the applicant of his intention to forfeit the security and the grounds thereof;

(b) in the case of any condition referred to in subsection (3)(b)(i) relating to land or in subsection (3)(c) relating to shares in a company, the Controller may, by notice in writing, require the applicant to pay, within a specified period, a financial penalty of such amount (as the Controller thinks fit) not exceeding 50% of the market value of the land or shares concerned.

(8) The quantum of the financial penalty required to be paid under subsection (7)(b) shall take into account any security provided by the applicant under subsection (3)(d) and which has been forfeited under subsection (7)(a) in respect of the same contravention of any condition referred to in subsection (3)(b) or (c).

(9) Where an applicant is a company, limited liability partnership or society and the Controller is of the opinion that the failure of the applicant to comply with any condition referred to in subsection (3)(b)(i) or (c) was committed with the consent or connivance of, or was attributable to any neglect on the part of any person who is a director of the company, a partner of the limited liability partnership or a member of the governing body or board of trustees of the society, as the case may be, the Controller shall, together with the notice under subsection (7)(b) to the applicant, inform the person concerned of the Controller's opinion, and that person shall then be jointly and severally liable with the company, limited liability partnership or society to pay the financial penalty imposed under subsection (7)(b).

(10) Any financial penalty payable by any applicant or any person under subsection (7)(b) or (9) shall be recoverable by the Controller as a debt due to the Controller from that applicant or person.

(11) Upon granting approval under subsection (1) to develop land subject to the condition referred to in subsection (3)(b)(i), the Controller shall immediately inform the Registrar who shall enter —

(a) on the relevant volume and folio of the land-register in the Land Titles Registry of the Authority; or

(b) in the books or other records maintained at the Registry of Deeds of the Authority,

as the case may be, a notice warning persons dealing with the registered proprietor named therein that the registered proprietor is prohibited from selling, assigning, transferring, subleasing or otherwise disposing of the land in its vacant or undeveloped state.

(12) The Registrar shall cancel the notice of warning referred to in subsection (11) if the Controller directs that the notice be cancelled; and the Controller shall make such a direction if he is satisfied that the Temporary Occupation Permit or the Certificate of Statutory Completion for the whole of the development has been issued by the relevant authority.

(13) No claim shall be made by any person against the Registrar for any loss or damage suffered if the notice referred to in subsection (11) is not entered on the land-register in the Land Titles Registry of the Authority or in the books or other records maintained at the Registry of Deeds of the Authority, as the case may be, or is cancelled pursuant to subsection (12).

(14) For the purpose of determining under subsection (7) the financial penalty for contravening a condition, “market value” —

(a) in relation to land, means the market value of the land at the date of the contravention of the condition as assessed by an independent valuer appointed by the Controller; and

(b) in relation to shares in a company, means the market value of the shares at the date of the contravention of the condition.”.

Amendment of section 31

17. Section 31 of the principal Act is amended —

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

“(5) Subject to subsections (5A) and (5B), the Controller may extend any period referred to in subsection (3)(c) and

may, in his discretion, dispense with the requirement to provide security referred to in subsection (3)(c).

(5A) The Controller may, when extending any period referred to in subsection (3)(c), require the housing developer to pay an extension charge of such amount as may be determined by the Controller.

(5B) Any extension charge payable under subsection (5A) need not bear any relationship to the cost of considering an application for and of granting an extension of any period referred to in subsection (3)(c).”;

(b) by inserting, immediately after the words “purchase or acquisition of the residential property” in subsection (7), the words “, or of the market value of the shares, as the case may be”;

(c) by deleting subsection (9) and substituting the following subsection:

“(9) Where a housing developer is a company, limited liability partnership or society and the Controller is of the opinion that the failure of the housing developer to comply with any condition referred to in subsection (3)(a) or (b) was committed with the consent or connivance of, or was attributable to any neglect on the part of any person who is a director of the company, a partner of the limited liability partnership or a member of the governing body or board of trustees of the society, as the case may be, the Controller shall, together with the notice under subsection (7) to the housing developer, inform the person concerned of the Controller’s opinion, and that person shall then be jointly and severally liable with the company, limited liability partnership or society to pay the financial penalty imposed under subsection (7).”;

(d) by deleting subsections (11) and (12); and

(e) by inserting, immediately after subsection (18), the following subsection:

“(19) For the purpose of determining under subsection (7) the financial penalty for contravening a condition, “market value”, in relation to shares in a company, means the market

value of the shares at the date of the contravention of the condition.”.

New section 31A

5 **18.** The principal Act is amended by inserting, immediately after section 31, the following section:

“Appeals to Minister

31A.—(1) Any —

- 10 (a) approved purchaser who is aggrieved by any notice of the Controller under section 25B(1) requiring the approved purchaser to pay a financial penalty;
- (b) applicant under section 26 who is aggrieved —
 - (i) by any decision of the Controller not to extend the period referred to in section 26(3A)(a) or (b)(ii); or
 - 15 (ii) by any notice of the Controller under section 26(3E)(a) or (b) forfeiting security or requiring the applicant to pay a financial penalty;
- (c) person referred to in section 26(3G) who is aggrieved by the opinion of the Controller in any notice under section 26(3G);
- 20 (d) applicant under section 28 who is aggrieved —
 - (i) by any decision of the Controller not to extend the period referred to in section 28(2)(a) or (b)(ii); or
 - (ii) by any notice of the Controller under section 28(6)(a) or (b) forfeiting security or requiring the applicant to pay a financial penalty;
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- (e) person referred to in section 28(8) who is aggrieved by the opinion of the Controller in any notice under section 28(8);
- (f) applicant under section 28A who is aggrieved —
 - (i) by any decision of the Controller not to extend the period referred to in section 28A(3)(a) or (b)(ii); or
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- (ii) by any notice of the Controller under section 28A(7)(a) or (b) forfeiting security or requiring the applicant to pay a financial penalty;
- (g) person referred to in section 28A(9) who is aggrieved by the opinion of the Controller in any notice under section 28A(9);
- (h) housing developer under section 31 who is aggrieved —
- (i) by any decision of the Controller not to extend the period referred to in section 31(3)(c)(i) or (ii); or
- (ii) by any notice of the Controller under section 31(6) or (7) forfeiting security or requiring the housing developer to pay a financial penalty; or
- (i) person referred to in section 31(9) who is aggrieved by the opinion of the Controller in any notice under section 31(9),
- may, within 3 months from the date of the notice or the date of being notified of the decision, as the case may be, (or such longer period as the Minister may allow in exceptional circumstances, whether before or after the end of the 3 months), appeal to the Minister in the manner prescribed.
- (2) The Minister may determine an appeal under subsection (1) by confirming, varying or reversing the Controller’s decision or opinion in the notice or notification (which may include ordering the refund of any security forfeited or any financial penalty paid); and the decision of the Minister on any such appeal shall be final and shall not be called in question in any court.”.

Amendment of section 32

19. Section 32 of the principal Act is amended by inserting, immediately after subsection (2B), the following subsection:

- “(2C) Where the Minister grants (before, on or after the date of commencement of section 19 of the Residential Property (Amendment) Act 2010) an exemption under this section in respect of any person or property referred to in subsection (1)(a) or (b) subject to any condition, any person who fails to comply with any such condition on or after that date shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the

case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.”.

Repeal of section 35

5 **20.** Section 35 of the principal Act is repealed.

Amendment of section 36

21. Section 36(1) of the principal Act is amended by deleting “\$5,000” and substituting “\$20,000”.

Miscellaneous amendments

10 **22.** The principal Act is amended —

(a) by deleting the word “Minister” in the following provisions and substituting in each case the word “Controller”:

Sections 9(1), (2) and (3), 10(4)(b), 11(4)(b), 14(1)(a), 14A(1)(a), 16(4)(b) and 17(1)(a);

15 (b) by deleting “\$2,000” in the following provisions and substituting in each case “\$10,000”:

Sections 10(6), 11(6), 16(6) and 36A(1); and

(c) by inserting, immediately after the words “the Minister” wherever they appear in the following provisions, the words “or the Controller, as the case may be,”:

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Sections 14(4)(a), 14A(4)(a), 14C(1) and 17(4)(a).

Related amendments to Land Titles Act

23. The Land Titles Act (Cap. 157) is amended —

(a) by deleting the word “and” at the end of section 29(1)(c)(i);

25 (b) by deleting the comma at the end of section 29(1)(c)(ii) and substituting the word “; and”;

(c) by inserting, immediately after sub-paragraph (ii) of section 29(1)(c), the following sub-paragraph:

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“(iii) any notice which the Registrar is required to enter on the land-register in respect of the land, any estate or

interest therein or any subdivided lot thereof under the Residential Property Act (Cap. 274),”; and

(d) by inserting, immediately after section 115, the following section:

5 **“Controller of Residential Property may lodge caveat**

10 **115A.** For the purposes of section 25 of the Residential Property Act (Cap. 274), the Controller of Residential Property (within the meaning of that Act) may, when directed by the Minister under section 25A of that Act, lodge with the Registrar a caveat over a lot in the approved form forbidding the registration under this Act, during the period specified by the Minister in a condition imposed when granting approval under section 25 of that Act, of any dealing affecting the land against which the caveat is directed unless the Controller, or
15 some person nominated by him in the caveat, has consented in writing to such registration.”.

Savings and transitional provisions

20 **24.—**(1) Section 3(a) shall not apply to any obligation to sell any estate or interest in residential property arising from the death of any deceased person which occurred before the date of commencement of that section and section 3(4) of the principal Act in force immediately before that date shall continue to apply to such obligation as if section 3(a) had not been enacted.

25 (2) Any approval granted by the Minister immediately before the respective dates of commencement of sections 13, 15 and 16 shall continue and be deemed to have been granted under the corresponding provisions of the principal Act as amended by this Act.

30 (3) Sections 9, 10, 11, 14, 14A, 14C, 16, 17 and 27 of the principal Act in force immediately before the date of commencement of sections 14 and 22(a) and (c) shall continue to apply in respect of any approval granted by the Minister under section 26, 28 or 28A of the principal Act before that date as if this Act had not been enacted.

35 (4) Any application for approval under any former provision of the principal Act before the date of commencement of the amendment or repeal, as the case may be, of the former provision and whose application was pending immediately before that date shall, where applicable, be

deemed to be an application for approval under the corresponding provisions of the principal Act as amended by this Act.

- 5 (5) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations published in the *Gazette*, prescribe such provisions of a savings or transitional nature consequent on the enactment of this Act, as he may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Residential Property Act (Cap. 274) —

- (a) to decriminalise failure to comply with certain conditions imposed under the Act;
- (b) to provide for the imposition of financial penalty for failure to comply with certain conditions which is in itself not an offence;
- (c) to raise the penalty for certain offences;
- (d) to empower the court to confiscate benefits derived by an accused from the commission of an offence under section 4(6) for failure to comply with a notice issued by the Controller of Residential Property (the Controller) to transfer and divest residential property;
- (e) to provide for the lodgment of caveat on the land-register by the Controller where the Minister has imposed a condition against disposal of any residential property within such period as may be specified by the Minister under section 25;
- (f) to empower the Controller to impose payment of extension charges when extending the time for development of residential property or land, as the case may be, under sections 26, 28, 28A and 31; and
- (g) to streamline the administration of the Act.

The Bill also makes related amendments to the Land Titles Act (Cap. 157).

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “notice to attach and sell” in section 2(1) to include any such notice issued by the Minister under the new section 3A(3).

Clause 3 amends section 3(4) by reducing the period of sale of residential property belonging to a deceased person, which a foreign person is beneficially entitled under a will or any written law governing intestate succession, from 10 years to 5 years from the date of the death of the deceased person. The existing allowance for extension of time is retained. The clause further introduces new subsections (12A) to (12D) to empower the Controller to impose conditions when extending the period to sell such residential property, including the provision of security, which may be forfeited (in part

or whole) if the legal personal representatives fail to comply with any condition imposed by the Controller.

Clause 4 introduces a new section 3A to require former citizens and permanent residents of Singapore to sell their residential property (other than non-restricted residential property) to a citizen or an approved purchaser within 2 years from the date of cessation of their Singapore citizenship or permanent residence (as the case may be). This requirement does not apply where a former permanent resident cancels his permanent residence to become a citizen of Singapore. The Minister has power to extend the period. The penalty is a fine of up to \$20,000 or imprisonment for a term of up to 3 years or both. In addition, the new section 3A gives the Minister power to issue to the Controller a notice for the attachment and sale of any such residential property which is not sold within the 2-year period or any extension thereof.

Clause 5 amends section 4(3) by raising the maximum fine for the offence of purchasing or acquiring all the flats or units in a non-restricted residential property development without the prior approval of the Minister. The maximum fine of \$10,000 is raised to \$100,000.

The clause further deletes and substitutes subsection (6) to raise the penalties for the offence of failure by any foreign person to comply with the Controller's notice to divest and transfer all his estate or interest in the entire development or any flat or unit in the development. The maximum fine of \$10,000 is raised to \$100,000. For any continuing contravention before conviction, the new subsection (6) provides a new penalty of a fine of up to \$500 for every day or part thereof during the period of such continuing contravention. For any continuing contravention after conviction, the foreign person is liable to be convicted of a further offence and the maximum fine for this further offence is raised from \$500 to \$1,000 for every day or part thereof during the period of such continuing contravention. Where any act or thing has to be done within a particular period, then any failure to do that act or thing within the period constitutes a separate offence for each day it is not done, and the obligation to do that act or thing will continue, notwithstanding that that period has expired, until that act or thing is done.

Clause 6 introduces a new section 4A to empower a court to make a confiscation order in respect of benefits derived by any foreign person convicted of an offence under section 4(6) for not complying with the Controller's notice under section 4(4) if the court is satisfied that such benefits have been so derived. The notice under section 4(4) will specify the estate or interest in the development that must be disposed of within the period delimited by that section. The benefits derived are defined as the value of the estate or interest in the development held in contravention of section 4(6), or if that estate or interest is disposed of before conviction, the difference between the sale price or market value of that estate or interest, whichever is the higher, and the price paid by the foreign person for the purchase or acquisition of that estate or interest. Once a confiscation order is made, the confiscation order is to be enforceable as if it were a fine. Confiscation orders can be made only in respect of offences committed on or after the date of commencement of the clause.

Clause 7 amends the priority in application of the proceeds of any compulsory sale of residential property or land by the Controller. After applying the proceeds to meet all costs and expenses incurred in connection with the compulsory sale, section 6(7) is

amended to require the proceeds to be next applied to meet all financial penalties payable in respect of the residential property or land sold. The balance may then be paid over to the owner referred to in section 6(7)(c).

Clause 8 amends section 9(6) by raising the maximum fine for an offence under section 9(5) where a Singapore entity becomes a converted entity without the approval of the Controller under section 26 for such conversion and the retention of its residential property (other than non-restricted residential property). The maximum fine of \$50,000 is raised to \$100,000.

Clause 9 introduces new section 22(2A) to (2D) to empower the Minister to impose conditions when extending the period to sell residential property (other than non-restricted residential property) by any mortgagee in exercise of his power of sale, including the provision of security, which may be forfeited (in part or whole) if the mortgagee fails to comply with any condition imposed by the Minister.

Clause 10 amends section 23(4) by raising the maximum fine for an offence under subsection (1)(a) or (b) where a citizen or an approved purchaser purchases or acquires residential property (other than non-restricted residential property) as a nominee for a foreign person, or where a foreign person appoints a citizen or an approved person as his nominee to purchase or acquire such residential property. The maximum fine of \$50,000 is raised to \$100,000.

Clause 11 amends section 25 by introducing a new subsection (7)(aa) to make it clear that one of the conditions that the Minister may impose is that the foreign person must not dispose of his or its estate or interest in residential property (other than non-restricted residential property) within such period as may be specified by the Minister. The clause further deletes subsection (8) to decriminalise breach of any undertaking given by any applicant pursuant to section 25(7)(c) to comply with the conditions imposed by the Minister.

Clause 12 introduces new sections 25A, 25B and 25C.

Where the Minister has imposed a condition for non-disposal of any estate or interest in the residential property within the specified period under section 25, the new section 25A empowers the Minister to direct the Controller to lodge a caveat on the land-register forbidding the registration under the Land Titles Act (Cap. 157) during that period of any dealing affecting the residential property against which the caveat is directed unless the Controller or some person nominated by him in the caveat has consented in writing to such registration.

The new section 25B provides that where an approved purchaser by lease or agreement allows another person the right to occupy any residential property (other than non-restricted residential property) in contravention of any condition imposed by the Minister under section 25(7)(a), the approved purchaser may be liable to pay a financial penalty. If the approved purchaser is a company or limited liability partnership, the directors of the company or partners of the limited liability partnership, as the case may be, may also be jointly and severally liable with the company or limited liability partnership for the financial penalty. The financial penalty payable is an amount not exceeding \$10,000, or 3 times the amount of rental payable and collected (whether or not by the approved purchaser) during the period of contravention, or 3

times the assessed rental for such residential property that is reasonably expected to be collected during the period of contravention, whichever is the highest.

The new section 25C provides a criminal penalty where an approved purchaser fails to comply with any condition imposed by the Minister under section 25(7), other than the conditions referred to in section 25(7)(a). The penalty is a fine of up to \$200,000 or imprisonment for a term up to 3 years or both and, in the case of a continuing offence, to a further fine of up to \$2,000 for every day or part thereof during which the offence continues after conviction. Contravention of any condition referred to in section 25(7)(a) does not give rise to a criminal offence.

Clause 13 amends section 26(1) and (3) to provide that approval for any Singapore entity to convert to a converted entity and for retention of all or any of its residential property, which is not non-restricted residential property, after conversion may be granted by the Controller, with the approval of the Minister.

The clause further introduces a new section 26(3A) to (3H) for the following purposes:

- (a) to provide for the Controller's power to impose conditions when granting his approval, including the following:
 - (i) the condition to carry out and complete the development of the residential property within the period determined by the Controller;
 - (ii) the condition not to sell, assign, transfer, sublease or otherwise dispose of the residential property in a vacant or undeveloped state without the prior approval of the Controller;
 - (iii) the condition to sell all the flats or dwelling-houses in the development, or where the residential property comprises buildings which have not been subdivided into units for sale, to sell the whole development, to citizens or approved purchasers within a particular period;
 - (iv) the condition prohibiting a person who holds shares in the entity or who is a partner or member of the entity from selling, assigning, transferring or otherwise disposing of any of his shares or any interest in such shares to any other person, or from resigning as partner or member of the entity, without the approval of the Controller;
 - (v) the condition to provide security for the purposes of complying with any condition imposed by the Controller; and
 - (vi) the condition to provide a written undertaking to comply with the conditions imposed by the Controller;
- (b) to empower the Controller to extend the period referred to in section 26(3A)(a) or (b)(ii) and to impose payment of an extension charge when extending the period, which amount is to be determined by the Controller and need not bear any relationship to the cost of considering an application for and of granting an extension of the period;

- (c) to provide for the forfeiture (in part or whole) of any security provided under section 26(3A)(d) in the event of a failure to comply with the condition to carry out and complete the development of the residential property within the period or any extension thereof, or any other condition for which security has been provided;
- (d) to provide that where there is a failure to comply with the condition not to sell, assign, transfer, sublease or otherwise dispose of the residential property in its vacant or undeveloped state without the prior approval of the Controller, or the condition not to dispose of shares in the entity or resign as partner or member (as the case may be) of the entity without the approval of the Controller, the entity may be liable to pay a financial penalty of up to 50% of the market value of the residential property or of the shares in the entity, as the case may be;
- (e) to provide that any person who is a director, partner or member of the governing body or board of trustees of the entity may also be jointly and severally liable with the entity for the financial penalty; and
- (f) to provide for the entry of a notice in the land-register by the Registrar, warning of the prohibition to sell, assign, transfer, sublease or otherwise dispose of the residential property in its vacant or undeveloped state.

Clause 14 amends section 27(1) to provide for approval granted by the Controller in certain circumstances. This is a consequential amendment arising from the amendments to sections 26, 28 and 28A made by clauses 13, 15 and 16.

Clause 15 amends section 28(1) to provide for the grant of approval by the Controller to any foreign person to change the existing use of land (other than residential property) to use for residential purposes, and for the making of an application for approval to the Controller.

The clause further deletes and substitutes section 28(2) to (5) and introduces a new section 28(6) to (13) for the following purposes:

- (a) to provide that the Controller may, with the approval of the Minister, grant approval, subject to conditions, including the following:
 - (i) the condition to carry out and complete the development of the land within the period determined by the Controller;
 - (ii) the condition not to sell, assign, transfer, sublease or otherwise dispose of the land in its vacant or undeveloped state without the prior approval of the Controller;
 - (iii) the condition to sell all the flats or dwelling-houses in the development, or where the land comprises buildings which have not been subdivided into units for sale, to sell the whole development, to citizens or approved purchasers within a particular period;
 - (iv) where the foreign person is a company, limited liability partnership or society, the condition prohibiting a person who holds shares in the company or who is a partner in the limited liability partnership or who

is a member of the society from selling, assigning, transferring or otherwise disposing of any of his shares or any interest in such shares to any other person, or from resigning as such partner or member, as the case may be, without the approval of the Controller;

- (v) the condition to provide security for the purposes of complying with any condition imposed by the Controller; and
 - (vi) the condition to provide a written undertaking to comply with the conditions imposed by the Controller;
- (b) to empower the Controller to extend the period referred to in section 28(2)(a) or (b)(ii) and to impose payment of an extension charge when extending the period, which amount is to be determined by the Controller and need not bear any relationship to the cost of considering an application for and of granting an extension of the period;
- (c) to provide for the forfeiture (in part or whole) of any security provided under section 28(2)(d) in the event of a failure to comply with the condition to carry out and complete the development of the land within the period or any extension thereof, or any other condition for which security has been provided;
- (d) to provide that where there is a failure to comply with the condition not to sell, assign, transfer, sublease or otherwise dispose of the land in its vacant or undeveloped state without the prior approval of the Controller, or the condition not to dispose of shares or resign as partner or member (as the case may be) without the approval of the Controller, the foreign person may be liable to pay a financial penalty of up to 50% of the market value of the land or shares, as the case may be;
- (e) to provide that where the foreign person is a company, limited liability partnership or society, the directors of the company, partners of the limited liability partnership or members of the governing board or board of trustees of the society, as the case may be, may also be jointly and severally liable with the company, limited liability partnership or society for the financial penalty; and
- (f) to provide for the entry of a notice in the land-register by the Registrar, warning of the prohibition to sell, assign, transfer, sublease or otherwise dispose of the land in its vacant or undeveloped state.

Clause 16 amends section 28A(1) to provide for the grant of approval to any foreign person who is the owner of vacant land to develop the land by the Controller in accordance with section 28A, and for the making of an application for such approval to the Controller.

The clause further deletes and substitutes section 28A(3), (4) and (5) and introduces a new section 28A(6) to (14) for the following purposes:

- (a) to provide that the Controller may, with the approval of the Minister, grant approval, subject to conditions, including the following:

- (i) the condition to carry out and complete the development of the land within the period determined by the Controller;
 - (ii) the condition not to sell, assign, transfer, sublease or otherwise dispose of the land in a vacant or undeveloped state without the prior approval of the Controller;
 - (iii) the condition to sell all the flats or dwelling-houses in the development, or where the land comprises buildings which have not been subdivided into units for sale, to sell the whole development, to citizens or approved purchasers within a particular period;
 - (iv) where the foreign person is a company, limited liability partnership or society, the condition prohibiting a person who holds shares in the company or who is a partner in the limited liability partnership or who is a member of the society from selling, assigning, transferring or otherwise disposing of any of his shares or any interest in such shares to any other person, or from resigning as such partner or member, as the case may be, without the approval of the Controller;
 - (v) the condition to provide security for the purposes of complying with any condition imposed by the Controller; and
 - (vi) the condition to provide a written undertaking to comply with the conditions imposed by the Controller;
- (b) to empower the Controller to extend the period referred to in section 28A(3)(a) or (b)(ii) and to impose payment of an extension charge when extending the period, which amount is to be determined by the Controller and need not bear any relationship to the cost of considering an application for and of granting an extension of the period;
- (c) to provide for the forfeiture (in part or whole) of any security provided under section 28A(3)(d) in the event of a failure to comply with the condition to carry out and complete the development of the land within the period or any extension thereof, or any other condition for which security has been provided;
- (d) to provide that where there is a failure to comply with the condition not to sell, assign, transfer, sublease or otherwise dispose of the land in its vacant or undeveloped state without the prior approval of the Controller, or the condition not to dispose of shares or resign as partner or member (as the case may be) without the approval of the Controller, the foreign person may be liable to pay a financial penalty of up to 50% of the market value of the land or shares, as the case may be;
- (e) to provide that where the foreign person is a company, limited liability partnership or society, the directors of the company, partners of the limited liability partnership or members of the governing board or board of trustees of the society, as the case may be, may also be jointly and severally liable with the company, limited liability partnership or society for the financial penalty; and

- (f) to provide for the entry of a notice in the land-register by the Registrar, warning of the prohibition to sell, assign, transfer, sublease or otherwise dispose of the land in its vacant or undeveloped state.

Clause 17 amends section 31 by deleting and substituting subsection (5) and introducing new subsections (5A) and (5B) to provide that the Controller may impose an extension charge when extending the period referred to in section 31(3)(c). The amount of the extension charge is to be determined by the Controller and need not bear any relationship to the cost of considering an application for and of granting an extension of the period. The clause further amends subsection (7) to provide for the financial penalty to be an amount not exceeding 50% of the market value of shares, where the housing developer fails to comply with the relevant condition referred to in subsection (3)(b).

Clause 18 inserts a new section 31A conferring an avenue of appeal to the Minister against certain decisions or opinions of the Controller under sections 25B, 26, 28, 28A and 31.

Clause 19 amends section 32 by introducing a new subsection (2C) to provide a higher penalty for the offence of failure to comply with any condition imposed by the Minister when granting an exemption under the section. The new penalty is a fine of up to \$50,000 and, in the case of a continuing offence, a further fine of up to \$2,000 for every day or part thereof during which the offence continues after conviction.

Clause 20 repeals section 35. Failure to comply with any condition imposed under sections 25(7)(a), 26, 28, 28A and 31 would not give rise to a criminal offence.

Clause 21 amends section 36(1) by raising the general penalty. The maximum fine of \$5,000 is raised to \$20,000. The maximum term of imprisonment remains unchanged.

Clause 22 amends various penal provisions of the Act, namely, sections 10(6), 11(6) and 16(6) by raising the maximum fine for the offences prescribed therein from \$2,000 to \$10,000. The clause also amends section 36A(1) by raising the maximum composition sum from \$2,000 to \$10,000. The clause further amends various other provisions of the Act to provide for approval granted by the Controller under section 26. These are consequential amendments arising from the amendment to section 26 made by clause 13.

Clause 23 makes 2 related amendments to the Land Titles Act (Cap. 157). Section 29(1) is amended to provide for the folios of the land-register to contain any notice which the Registrar of Titles is required to enter on the land-register under the Residential Property Act (Cap. 274). The second amendment inserts a new section 115A which empowers the Controller to lodge a caveat pursuant to the Minister's direction under section 25A of the Residential Property Act.

Clause 24 sets out the savings and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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