

Terrorism (Suppression of Financing) (Amendment) Bill

Bill No. 11/2013.

Read the first time on 8th July 2013.

A BILL

intituled

An Act to amend the Terrorism (Suppression of Financing) Act
(Chapter 325 of the 2003 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 Terrorism (Suppression of Financing) (Amendment) Act 2013 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Terrorism (Suppression of Financing) Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the words “defined in regulations made under the United Nations Act (Cap. 339) to be a terrorist” in the definition of “terrorist” in subsection (1) and substituting the words “set out in the First Schedule”;

(b) by inserting, immediately after the word “entities” in the definition of “terrorist entity” in subsection (1), the words “, and any entity set out in the First Schedule”; and

(c) by deleting the word “Schedule” in subsection (2) and substituting the words “Second Schedule”.

New section 6A

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

“Penalty

6A. Any person who is guilty of an offence under section 3, 4, 5 or 6 shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 10 years or to both; or

(b) in any other case, to a fine not exceeding \$1 million.”.

Repeal and re-enactment of section 7

4. Section 7 of the principal Act is repealed and the following section substituted therefor:

“Exemption

7.—(1) Subject to subsection (2), the Minister may, by order published in the *Gazette*, exempt any person in Singapore, or any citizen of Singapore outside Singapore, from section 4(b) or 6 or both, in respect of any specified activity or transaction or a class of specified activities or transactions carried out by the person or citizen. 5

(2) An exemption under subsection (1) from section 4(b) may not be made in respect of any activity or transaction involving property or services that will be used by or will benefit a terrorist entity. 10

(3) An exemption under subsection (1) may be subject to any terms and conditions, including a condition precedent that the person exempted must have a notice of exemption from the Minister or a public officer authorised by the Minister before the exemption takes effect. 15

(4) If a person is exempted under an order made under subsection (1) in respect of any activity or transaction or class of activities or transactions, any other person involved in carrying out — 20

(a) the activity or transaction; or

(b) any activity or transaction in that class of activities or transactions,

to which the exemption relates is also exempt from section 4(b) or 6 or both (whichever applies to the act carried out by that other person), and section 8, if the terms and conditions of the exemption (if any) are met.”. 25

Amendment of heading to Part III

5. The heading to Part III of the principal Act is amended by inserting, immediately after the word “DISCLOSURE”, the words “AND TIPPING-OFF”. 30

New sections 10A and 10B

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

“Information and identity of informers not to be disclosed

5 **10A.—**(1) Except as provided in subsection (3) —

 (a) no information disclosed by an informer pursuant to section 8, 9 or 10 shall be admitted in evidence in any criminal or civil proceedings; and

10 (b) no witness in any criminal or civil proceedings shall be obliged —

 (i) to disclose the name and address of any informer;
 or

 (ii) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of the informer.

15 (2) If any book, document or paper which is in evidence or liable to inspection in any criminal or civil proceedings contains any entry in which any informer is named or described or which may lead to his discovery, the court shall cause those entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

20 (3) If a court —

25 (a) in any proceedings before it for an offence under any written law, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true; or

30 (b) in any other proceedings, is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer,

the court may permit inquiry and require full disclosure concerning the informer.

(4) In this section, “informer” means a person who makes a disclosure or report pursuant to section 8, 9 or 10.

Tipping-off

10B.—(1) Any person —

- (a) who knows or has reasonable grounds to suspect that a police officer is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted under or for the purposes of this Act; and 5
- (b) who discloses to any other person information or any other matter which is likely to prejudice that investigation or proposed investigation, 10

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both. 15

(2) Any person —

- (a) who knows or has reasonable grounds to suspect that a disclosure or report has been or is being made under section 8, 9 or 10; and
- (b) who discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure or report, 20

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 3 years or to both. 25

(3) Nothing in subsection (1) or (2) makes it an offence for an advocate and solicitor or his employee to disclose any information or other matter —

- (a) to, or to a representative of, a client of his in connection with the giving of advice to the client in the course of and for the purpose of the professional employment of the advocate and solicitor; or 30

(b) to any person —

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

5 (4) Nothing in subsection (1) or (2) makes it an offence for a legal counsel in an entity or a person acting under his supervision to disclose any information or other matter —

10 (a) to the entity in connection with the giving of advice to the entity, or any officer or employee of the entity, in the course of and for the purpose of his employment as such legal counsel; or

(b) to any person —

(i) in contemplation of, or in connection with, legal proceedings; and

15 (ii) for the purpose of those proceedings.

(5) Where a legal counsel is employed by one of a number of corporations that are related to each other under section 6 of the Companies Act (Cap. 50), subsection (4) shall apply in relation to the legal counsel and every corporation so related as if the legal counsel were also employed by each of the related corporations.

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(6) Where a legal counsel is employed by a public agency and is required as part of his duties of employment or appointment to provide legal advice or assistance in connection with the application of the law or any form of resolution of legal dispute to another public agency or agencies, subsection (4) shall apply in relation to the legal counsel and the second-mentioned public agency or agencies as if the legal counsel were also employed by the second-mentioned public agency or agencies.

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30 (7) Subsections (3) and (4) do not apply in relation to any information or other matter which is disclosed with a view to furthering any illegal purpose.

(8) In proceedings against a person for an offence under subsection (1) or (2), it is a defence to prove that he did not know

and had no reasonable ground to suspect that the disclosure was likely to be prejudicial in the way mentioned in subsection (1) or (2).

(9) No person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or other penal legislation.

(10) In this section —

“legal counsel” has the same meaning as in section 3(7) of the Evidence Act (Cap. 97);

“public agency” has the same meaning as in section 128A(6) of the Evidence Act.”.

Repeal and re-enactment of section 38

7. Section 38 of the principal Act is repealed and the following section substituted therefor:

“Amendment of Schedules

38. The Minister may, by order published in the *Gazette* —

(a) amend, add to or vary the First Schedule; and

(b) amend the Second Schedule to specify any act or omission that is punishable under any law that implements any treaty, convention or other international agreement to which Singapore is a party as a terrorist act.”.

New First Schedule

8. The principal Act is amended by inserting, immediately after section 39, the following Schedule:

“FIRST SCHEDULE

Sections 2(1) and 38(a)

TERRORISTS AND TERRORIST ENTITIES

1. All individuals and entities belonging to or associated with the Taliban in the Taliban List, and all individuals and entities belonging to or associated

with the Al-Qaida organization in the Al-Qaida List, subject to the following conditions:

- 5 (a) where any individual or entity is added to either of the Lists on or after the date of commencement of section 8 of the Terrorism (Suppression of Financing) (Amendment) Act 2013, the individual or entity is taken to be referred to in this Schedule with effect from the date immediately following the date of addition to the List;
- 10 (b) where the particulars of any individual or entity in either of the Lists are modified on or after the date of commencement of section 8 of the Terrorism (Suppression of Financing) (Amendment) Act 2013, they are taken to be modified for the purposes of this Schedule with effect from the date immediately following the date of modification in the List.

2. In this Schedule, unless the context otherwise requires —

15 “1267 Committee” means the committee established pursuant to Resolution 1267 (1999);

“1988 Committee” means the committee established pursuant to Resolution 1988 (2011);

20 “Al-Qaida List” means the List of individuals and entities belonging to or associated with the Al-Qaida organization, established and maintained by the 1267 Committee pursuant to Resolutions 1267 (1999) and 1989 (2011), which is updated from time to time by the 1267 Committee, and made available on the Internet through the official United Nations website at <http://www.un.org/>;

25 “Resolution 1267 (1999)” means Resolution 1267 (1999) of the Security Council of the United Nations concerning Al-Qaida and associated individuals and entities;

30 “Resolution 1988 (2011)” means Resolution 1988 (2011) of the Security Council of the United Nations concerning the Taliban and associated individuals and entities;

“Resolution 1989 (2011)” means Resolution 1989 (2011) of the Security Council of the United Nations concerning Al-Qaida and associated individuals and entities;

35 “Taliban List” means the List of individuals and entities belonging to or associated with the Taliban, established and maintained pursuant to Resolution 1988, which is updated from time to time by the 1988 Committee, and made available on the Internet through the official United Nations website at <http://www.un.org/>.”.

Renaming of Schedule

9. The principal Act is amended by renaming the existing Schedule as the Second Schedule.

Miscellaneous amendments

10. The principal Act is amended by deleting the words “and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or to both” in the following provisions:

Sections 3, 4, 5 and 6(2).

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EXPLANATORY STATEMENT

This Bill seeks to amend the Terrorism (Suppression of Financing) Act (Cap. 325).

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “terrorist” in section 2(1) by replacing the reference to individuals in the United Nations (Anti-Terrorism Measures) Regulations (Cap. 339, Rg 1) with individuals set out in a new First Schedule to be inserted in the Act. As a consequential amendment, a reference to entities in the new First Schedule is added to the definition of “terrorist entity” in section 2(1).

Clause 3 inserts a new section 6A to increase the maximum fine for various terrorism financing offences under the Act, in order to align the fine amounts with the money laundering offences under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

Clause 4 repeals and re-enacts section 7 (Exemption from prohibition against dealing) for the following reasons:

- (a) to allow the Minister to make an exemption order for an act that will otherwise offend section 4(b), so as to enable any property or service to be provided to a terrorist in circumstances where it will not be used to facilitate a terrorist activity; and
- (b) to allow a condition of exemption to be imposed that the person exempted must first obtain a notice of exemption from the Minister or a public officer authorised by him.

Clause 5 makes a technical amendment to the heading of Part III.

Clause 6 inserts 2 new sections, sections 10A and 10B.

The new section 10A is intended to protect from disclosure during any legal proceedings or any inspection in such proceedings, the identity of any person who gave information to the authorities under section 8, 9 or 10. Sections 8, 9 and 10 contain various duties of persons to provide information concerning terrorist property, transactions relating to such property, or any terrorism financing offence, to the police or other persons.

The new section 10B criminalises the disclosure of information which will likely prejudice an investigation or a proposed investigation under the Act, or an investigation which may be conducted following a report made under section 8, 9 or 10.

Clause 7 repeals and re-enacts section 38 (Amendment of Schedule) as a result of the insertion of the new First Schedule (see clause 8).

Clause 8 inserts a new First Schedule which replicates with amendments the individuals and entities referred to in the Schedule to the United Nations (Anti-Terrorism Measures) Regulations. The provisions in the United Nations (Anti-Terrorism Measures) Regulations relating to terrorism financing will be revoked as part of the overall objective of consolidating all measures dealing with the suppression of terrorism financing in the Act.

Clause 9 renames the existing Schedule as the Second Schedule.

Clause 10 makes amendments to various sections containing terrorism financing offences, which are consequential to the insertion of new section 6A.

EXPENDITURE OF PUBLIC MONEY

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