

# **Town Councils (Amendment) Bill**

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**Bill No. 9/2017.**

*Read the first time on 6 February 2017.*

A BILL

*intituled*

An Act to amend the Town Councils Act (Chapter 329A of the 2000 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 Town Councils (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 2

2. Section 2 of the Town Councils Act (called in this Act the principal Act) is amended —

(a) by deleting the definition of “commercial property” in subsection (1) and substituting the following definition:

10 ““commercial property” means any building or premises vested in or belonging to the Board (or part of such building or premises) which is permitted under the Planning Act (Cap. 232) to be used wholly or partly as —

15 (a) a market, food centre, confectionery, bakery, restaurant or bar, or an eating house;

(b) an office or a place of business and for conducting administrative work;

20 (c) a shop or premises for the carrying on of any trade or business where the primary purpose is the sale of goods by retail or the provision of services;

#### *Examples*

25 A furniture shop, department store, supermarket, dispensary, medical clinic, dental clinic, beauty salon, ticket agency, travel agency, laundry shop, dry cleaner’s shop, pet shop, video games arcade, computer gaming centre, billiard saloon, bowling alley, bank or multimedia kiosk, or an automated teller machine.

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(d) a place —

- (i) for the care or education, or care and education, of children below 7 years of age; or
- (ii) at which 5 or more school-going children who are 7 years of age or older but below 14 years of age are habitually received for the purposes of care and supervision before or after school hours;

(e) premises —

- (i) for the reception, lodging and care of aged or disabled persons or persons suffering or convalescing from any sickness, injury or infirmity; or
- (ii) for any type of examination of the human body or of any matter derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of any disease or for the assessment of the health of any person;

*Examples*

A hospice, convalescent home or nursing home, or a dialysis centre, cancer screening centre or medical health centre.

(f) a kindergarten registered under section 23 of the Education Act

(Cap. 87) or an institution providing education or instruction;

*Examples*

A tuition centre, language school, computer school, music school, dance school, speech and drama school, child development centre or play school, or an art school or acting school.

(g) a sports club, community centre, community club, family service centre or residents' committee centre, or premises for community-based activities, and includes an office of such a club, centre or committee; or

(h) a police post, fire station or civil defence centre,

but excludes any property specified or described by the Minister, by order in the *Gazette*, as not to be a commercial property for the purposes of this Act;";

(b) by inserting, immediately after the words "flats in the building and" in the definition of "common property" in subsection (1), the words ", for any housing estate mentioned in section 54A(4), in respect of which a handover notice issued under section 54A is in effect, and";

(c) by inserting, immediately after the definition of "elected member" in subsection (1), the following definition:

" "finance manager", for a Town Council, means an individual (other than a member) who occupies a position in the Town Council and is primarily responsible to the Town Council for —

(a) the supervision and administration of the accounting systems of the Town Council, including —

- (i) keeping proper accounts and records of the Town Council's transactions and affairs;
- (ii) ensuring that all payments out of the Town Council's moneys are correctly made and properly authorised; and 5
- (iii) ensuring that adequate control is maintained over the receipt, custody, investment, safekeeping and expenditure of moneys and other assets of, or in custody or control of, the Town Council; 10
- (b) the preparation and revision of estimates of the revenue and expenditure of the Town Council under section 37; 15
- (c) ensuring that the financial statements of the Town Council comply with this Act; and 20
- (d) generally all financial matters relating to the Town Council;”;
- (d) by inserting, immediately after the definition of “flat” in subsection (1), the following definition: 25
  - “ “general manager”, for a Town Council, means an individual (other than a member) who occupies a position in the Town Council having the general control and management of the administration of the Town Council, and includes any individual, by whatever name called, who exercises such general control and management;”;
- (e) by inserting, immediately after the definition of “industrial property” in subsection (1), the following definitions: 35

“ “inspector” means an inspector of Town Councils appointed under section 43E;

“key officer”, for a Town Council, means any of the following individuals, whether or not an employee of the Town Council:

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(a) the secretary to the Town Council;

(b) the general manager of the Town Council, if there is one;

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(c) a finance manager of the Town Council (however designated);

(d) an individual who is appointed a deputy to any officer in paragraph (a), (b) or (c) (however designated);

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(e) a chairperson of any committee of a Town Council where formed under section 31 for any of the following matters:

(i) internal audit;

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(ii) finance;

(iii) procurement of goods or services;

(iv) publicity and public relations;

(v) estate management;”;

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(f) by inserting, immediately after the definition of “lease” in subsection (1), the following definition:

““managing agent”, for a Town Council, means a person (whether or not the person carries on any other business) who is engaged or appointed, for monetary or other reward, to exercise any power or perform any function or duty of the Town Council under this Act, such as (but not limited to) all of the following: 5

- (a) managing common property within the Town of the Town Council;
- (b) controlling the use of common property by residents of the housing estates within the Town or other persons; 10
- (c) maintaining and repairing common property or engaging appropriately qualified tradespersons to do so; 15
- (d) arranging building inspections and reports;
- (e) keeping and maintaining documents and records relating to any function, duty or power of the Town Council; 20
- (f) undertaking the financial management of the Town Council’s funds and books of account;
- (g) paying disbursements and expenses incurred in connection with the person’s management of the Town Council; 25
- (h) arranging for insurance for the Town Council; 30

- (i) paying accounts in relation to the Town Council, such as accounts for water and electricity charges,

but excludes the following individuals when performing any activity that is a function, duty or power of the Town Council under this Act:

- (i) a member of, the secretary to or other employee of the Town Council;

- (ii) an employee or similar officer of a managing agent of the Town Council;”;

- (g) by inserting, immediately after the definition of “secretary” in subsection (1), the following definitions:

““single Member constituency” means a constituency that is not a group representation constituency;

“statutory authority” means a body or an office that is established or constituted by or under a public Act to perform or discharge a public function, but does not include the Board or any Town Council;

“surplus”, for any fund established under section 33, means an excess of the assets over liabilities of the fund at the end of a financial year;”;

- (h) by inserting, immediately after subsection (3), the following subsections:

“(4) In this Act, a reference to the date on which any election results for a constituency are declared is a reference to the date the results of an election in that constituency are published in the *Gazette* under section 51 of the Parliamentary Elections Act (Cap. 218).



(5) In this Act, a person is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent or auditor of a Town Council if the person —

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(a) holds (whether in the person’s own right or on behalf of any other person) the position of director, partner or other executive position (however designated) in the business of the managing agent or auditor;

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(b) is entitled to exercise, by voting or otherwise and whether exercisable alone or in association with others, and whether in the person’s own right or on behalf of any other person, any power to participate in any directorial, managerial or executive decision in the business of the managing agent or auditor; or

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(c) is a substantial shareholder (within the meaning of section 81 of the Companies Act (Cap. 50)) of the managing agent or auditor, which is a company.”.

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### **Amendment of section 3**

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

(a) by deleting paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:

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“(a) a single constituency;

(b) any 2 or 3 constituencies where the Members of Parliament agree to their constituencies being declared to be a Town.”;

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(b) by deleting subsections (2), (3) and (4) and substituting the following subsections:

“(2) An order under subsection (1) that declares a constituency to be, or to be comprised in, a Town —

5           (a) is not invalidated by reason only of a change in the boundaries of the constituency pursuant to section 8 or 20A(1) of the Parliamentary Elections Act; but

10           (b) is to continue to be in force until the order is revoked after the first general election after the change in those boundaries.

(3) In the event of a general election following the dissolution of Parliament, an order under subsection (1) declaring all Towns must be made by the Minister —

15           (a) on the 14th day after the last date the election results are declared for the respective constituencies; and

          (b) with effect from that day.

20           (3A) An order under subsection (1) may be amended from time to time, and may contain supplementary provisions (not inconsistent with subsections (4), (5) and (6)) that may be desirable, necessary or expedient in consequence of any change to the boundaries of the area of a Town, such as but not  
25 limited to the following:

          (a) the dissolution of a Town Council;

          (b) the sale, transfer or disposition of any property or rights and liabilities of a Town Council for the affected area, including property, rights and liabilities that would not otherwise be capable of being transferred;

30           (c) the apportionment or adjustment between Town Councils of property, income or

expenditure, or rights and liabilities in connection with the affected area;

- (d) the continued operation of the by-laws made by a Town Council for the affected area and for the amendment or revocation by another Town Council of those by-laws, even if the by-laws were not originally made by that other Town Council; 5
- (e) the imposing of a duty on a Town Council to provide another Town Council with all such documents and information and other assistance as the other Town Council may reasonably require for the purposes of, or in connection with, the assumption of responsibility by that other Town Council for the affected area; 10 15
- (f) the change of name of any Town Council;
- (g) specifying for the purposes of subsection (4) the successor Town Council for a dissolved Town Council. 20

(4) Where an order under subsection (1) provides for an area comprised within a Town (called in this section Town A) to constitute part of another Town (called in this section Town B) —

- (a) the Town Council for Town A (called in this section the transferring Town Council); or 25
- (b) if the Town Council for Town A is dissolved, the successor Town Council to that Town Council,

continues to be liable, for a period specified in the order (being not more than 90 days) or a shorter period agreed between the Town Council for Town B (called in this section the receiving Town Council) and the transferring Town Council or successor Town Council for Town A (as the case may be), for the maintenance 30 35

and management of the common property of the residential and commercial property in the housing estates of the Board within that area as if the order had not been made.”;

5 (c) by deleting the words “the Town Council of the other Town” in subsection (5) and substituting the words “the receiving Town Council”;

(d) by deleting the words “the Town Council of the Town first-mentioned therein” in subsection (6) and substituting the words “the transferring Town Council or successor  
10 Town Council for Town A (as the case may be)”;

(e) by deleting subsection (7).

**Repeal and re-enactment of section 4**

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

**“Establishment of Town Council**

4. A Town Council is established by this section for every Town unless the Town Council is dissolved under this Act.”.

**Amendment of section 8**

20 5. Section 8 of the principal Act is amended —

(a) by deleting paragraph (b) of subsection (1) and substituting the following paragraph:

25 “(b) such other members appointed by the chairman in accordance with subsections (2) and (3).”; and

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

30 “(3) At least 6 individuals must be appointed under subsection (1)(b) as appointed members of a Town Council, but the maximum number that may be so appointed is the higher of the following:

- (a) 10 for each Member of Parliament required to be returned at any parliamentary election for each constituency comprised in the Town of that Town Council;
- (b) 30.”.

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### **Amendment of section 9**

#### **6. Section 9 of the principal Act is amended —**

- (a) by deleting subsections (1) to (4) and substituting the following subsections:

“(1) Subject to subsection (3), a chairman of a Town Council for a Town is — 10

- (a) if the area of the Town comprises only one single Member constituency, the Member of Parliament for that constituency; and

- (b) if the area of the Town comprises a single group representation constituency, or 2 or 3 constituencies, whoever is chosen by the elected members of the Town Council from among themselves to be the chairman. 15

(2) Unless otherwise provided in subsection (4), the chairman of a Town Council for a Town (as determined under subsection (1)) assumes that office as follows: 20

- (a) for a Town declared after a general election, on the day that the order made under section 3(1) in the circumstances in section 3(3) takes effect; 25

- (b) for a Town comprising one or more constituencies in which a by-election is held — 30

- (i) if the Town comprises only one single Member constituency, on the day after the day the candidate is

declared returned as the Member of Parliament for that constituency under section 49(7E)(a) or 49A(5) of the Parliamentary Elections Act (Cap. 218), whichever happens; or

(ii) if the Town comprises a single group representation constituency, or 2 or 3 constituencies, on the 14th day after the last date the election results are declared for the constituency or constituencies in which the by-election is held;

(c) for any other case, on the date the Town for the Town Council is declared under section 3.

(3) If the choice required by subsection (1)(b) is not made by the elected members of a Town Council on or before the applicable date mentioned in subsection (2), the Minister must appoint the chairman for that Town Council from among its elected members.

(4) The chairman so appointed under subsection (3) assumes office on the day immediately after the applicable date mentioned in subsection (2), and holds office for such term as the Minister may determine.”;

(b) by deleting paragraph (a) of subsection (9) and substituting the following paragraph:

“(a) terminates upon the assumption of office of the elected member or members of the Town Council for the Town after the general election; or”;

(c) by inserting, immediately after subsection (9), the following subsection:

“(9A) To avoid doubt, an individual’s appointment as an appointed member is not affected by reason only of the revocation —

(a) by the Minister under subsection (9)(b) of the individual's appointment to act as chairman; or

(b) by the chairman under subsection (10) of the individual's appointment to act as vice-chairman.”; 5

(d) by deleting the words “prescribed in the Schedule” in subsection (11) and substituting the words “prescribed by rules under section 57”; and

(e) by deleting subsection (13). 10

### **Repeal and re-enactment of section 13**

7. Section 13 of the principal Act is repealed and the following section substituted therefor:

#### **“Tenure of office of elected members**

**13.**—(1) Subject to this section, a Member of Parliament assumes office as an elected member of a Town Council — 15

(a) for a Town declared after a general election, on the day that the order made under section 3(1) in the circumstances in section 3(3) takes effect;

(b) for a Town comprising any constituency in which a by-election is held, on the day after the day he is declared returned at the by-election as the Member of Parliament for that constituency under section 49(7E)(a) or 49A(5) of the Parliamentary Elections Act (Cap. 218), whichever happens; or 20

(c) for a Town in any other case, on the day the Town is declared under section 3. 25

(2) An elected member of a Town Council vacates office as an elected member of a Town Council only when he ceases to be a Member of Parliament for the constituency comprised within the Town for which the Town Council is established. 30

(3) Subject to subsection (2), an elected member of a Town Council cannot resign his office as an elected member, and any

purported resignation as an elected member of a Town Council is of no effect.

(4) Every elected member of a Town Council who is not a chairman or vice-chairman of the Town Council must, as soon as practicable after assuming office as an elected member, complete a declaration of acceptance of that office in the form prescribed by rules under section 57 and deliver the declaration to the Minister.”.

### **Amendment of section 14**

**8.** Section 14 of the principal Act is amended —

(a) by deleting the words “subsection (2)” in subsection (1) and substituting the words “subsections (2), (4), (5), (6) and (8)”;

(b) by deleting the words “the assumption of office of the chairman of the Town Council after any general election or by-election in any constituency comprised within the Town under the Parliamentary Elections Act (Cap. 218)” in subsection (2) and substituting the words “the assumption of office of the chairman of the Town Council under section 9(2) or (4)”;

(c) by inserting, immediately after paragraph (a) of subsection (8), the following paragraphs:

“(aa) is appointed under section 38(1) as the auditor of the Town Council;

(ab) is or becomes the managing agent of the Town Council;

(ac) is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent or appointed auditor of the Town Council;”;

(d) by inserting, immediately after subsection (9), the following subsection:



“(10) Every appointed member of a Town Council must, as soon as practicable after being so appointed under subsection (1) or (3), complete a declaration of acceptance of that office in the form prescribed by rules under section 57 and deliver the declaration to the Minister.”.

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### **Repeal and re-enactment of section 15 and new section 15A**

9. Section 15 of the principal Act is repealed and the following sections substituted therefor:

#### **“Conflict of interest and disclosure by members**

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**15.—**(1) As soon as practicable after a member of a Town Council becomes aware of a conflict of interest in a question that has arisen or is about to arise before the Town Council, the member must disclose in writing the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict —

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(a) in the case of the chairman, to the secretary and all other members of the Town Council; or

(b) in the case of any other member of the Town Council, to the secretary and —

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(i) to the chairman;

(ii) if the chairman also has a conflict of interest, to a vice-chairman; or

(iii) if both the chairman and vice-chairman also have a conflict of interest, to all other members of the Town Council.

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(2) The secretary to a Town Council must ensure that every disclosure under subsection (1) in relation to any question —

(a) is recorded in a register of interests kept and maintained in the prescribed form; and

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(b) is brought to the attention of the member presiding at a meeting of the Town Council at which that question arises or is to arise.

(3) A member of a Town Council —

(a) may be present at a meeting of the Town Council while a question in which the member has a conflict of interest is under consideration and may be treated as being present at a meeting for the purposes of determining quorum; but

(b) must not participate in any decision on the question.

(4) For the purposes of this section, a member of a Town Council has a conflict of interest in a question arising for decision by the Town Council if the member, or an associate of the member, has a personal or financial interest in how the question is decided.

(5) However, subsection (4) does not apply merely because of an interest that is —

(a) an interest in a question about the level of allowances or expenses to be set for members;

(b) an interest that the member, or an associate of the member, shares in common with the general public or a substantial section of the public;

(c) an interest of the member or an associate of the member —

(i) in an appointment or a nomination for an appointment to a body with predominantly charitable objects; or

(ii) in any payment or reimbursement of membership fees, or expenses related to membership, in a body mentioned in sub-paragraph (i);

(d) an interest of the member, or an associate of the member, that is prescribed; or

(e) an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

(6) In this section and section 15A, a person is an associate of another if —

- (a) they are spouses or siblings or a parent and child or they are in a similar close family relationship;
- (b) they are in partnership; 5
- (c) one is a company and the other is a director or manager of the company;
- (d) one is a private company within the meaning of the Companies Act (Cap. 50) and the other is a shareholder in the company; or 10
- (e) a chain of relationships can be traced between them under one or more of the above paragraphs.

(7) The secretary to a Town Council who, without reasonable excuse —

- (a) fails to keep and maintain a register of interests in the prescribed form; or 15
- (b) fails to comply with subsection (2),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(8) To avoid doubt, this section is in addition to, and not in derogation of, the operation of any rule of law restricting a member of a Town Council from having any interest in contracts with the Town Council or from holding offices or possessing interests in conflict with his duties as such a member. 20

### **Town Council staff, etc., to disclose conflict of interest** 25

**15A.**—(1) This section applies —

- (a) to the secretary to a Town Council;
  - (b) to an employee, a staff or the managing agent of a Town Council who has been delegated a power, function or duty of the Town Council under this Act; 30
- and

(c) to a member of a committee of a Town Council who has been delegated a power, function or duty of the Town Council under this Act.

5 (2) As soon as practicable after a person mentioned in subsection (1)(a), (b) or (c) becomes aware of a conflict of interest that has arisen or is about to arise in a matter in which the person is conferred a power, function or duty relating to the Town Council by or under this Act, the person —

10 (a) must not exercise or further exercise that power, or perform or further perform that function or duty, without the approval of the Town Council; and

(b) must disclose the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict as follows:

15 (i) in the case of the secretary to or a member of a committee of a Town Council, or the managing agent of the Town Council, disclose to the chairman of the Town Council in writing as soon as the secretary, member of a committee or managing agent (as the case may be) becomes aware of the conflict of interest, and to the Town Council not later than at the next meeting of the Town Council;

20 (ii) in the case of an employee or a staff of a Town Council, disclose to the secretary to the Town Council in writing as soon as the employee or staff becomes aware of the conflict of interest.

25 (3) A person mentioned in subsection (1) has a conflict of interest in a matter in which the person is conferred a power, function or duty relating to the Town Council if the person, or an associate of the person, has a personal or financial interest in how the power, function or duty is to be exercised or performed in relation to that matter.

30 (4) This section is in addition to, and not in derogation of, the operation of any rule of law restricting a person mentioned in

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subsection (1) from having any interest in contracts with a Town Council or from holding offices or possessing interests in conflict with his powers, functions or duties as such a secretary to, or an employee or a staff or a managing agent of, a Town Council or a member of a committee of a Town Council.”.

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### **New section 17A**

**10.** The principal Act is amended by inserting, immediately after section 17, the following section:

#### **“Notice about members and key officers of Town Council**

**17A.—**(1) Within 30 days after an individual —

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(a) assumes any of the following offices in a Town Council:

(i) the chairman;

(ii) a vice-chairman;

(iii) an elected member;

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(iv) an appointed member; or

(b) is appointed as a key officer of a Town Council,

the Town Council must give to the Minister a notice specifying the name and other prescribed particulars of the individual.

(2) Within 30 days after an individual —

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(a) ceases to hold any of the following offices in a Town Council, other than because of the operation of section 9(9), 13(2) or 14(2):

(i) the chairman;

(ii) a vice-chairman;

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(iii) an elected member;

(iv) an appointed member; or

(b) ceases to be a key officer of a Town Council,

the Town Council must give to the Minister a notice specifying the name of the individual and other prescribed particulars about the cessation.

(3) Within 30 days after an individual —

5 (a) assumes any office mentioned in subsection (1)(a); or

(b) is appointed as —

(i) the secretary to the Town Council;

(ii) the general manager of the Town Council;

(iii) a finance manager of a Town Council; or

10 (iv) a deputy of any officer in sub-paragraph (i), (ii) or (iii),

the Town Council must exhibit, in accordance with subsection (4), a notice in English specifying the name of the individual.

15 (4) The notice required by subsection (3) must be —

(a) affixed to a conspicuous part of such buildings comprised within the Town of the Town Council concerned as will secure adequate publicity for the contents of the notice; and

20 (b) published in the *Gazette*, and at an online location accessible to residents of housing estates within that Town.”.

### **Amendment of section 18**

**11.** Section 18(1) of the principal Act is amended —

25 (a) by deleting the words “The functions” and substituting the words “Subject to sections 21A and 21B, the functions”;

(b) by inserting, immediately after the words “within the Town” in paragraph (a), the words “for the benefit of the residents of those housing estates”; and

30 (c) by deleting the words “any written law” in paragraph (b) and substituting the words “this Act”.

## Amendment of section 19

12. Section 19 of the principal Act is amended —

(a) by deleting the words “A Town Council” in subsection (1) and substituting the words “Subject to subsections (1A), (4) and (5) and sections 21A and 21B, a Town Council”; 5

(b) by deleting paragraph (aa) of subsection (1) and substituting the following paragraph:

“(aa) do, with the approval of the Minister, any of the following in relation to any facility that is erected, installed or planted within the Town but is outside of the common property of the residential and commercial property in the housing estates of the Board within the Town: 10

(i) erect, install or plant (including landscaping) the facility; 15

(ii) demolish and relocate the facility;

(iii) repair and maintain the facility,

provided that the owner of the property on which the facility is erected, installed, planted, demolished or relocated consents;” 20

(c) by deleting the words “or any other Act” wherever they appear in subsection (1)(b), (d) and (f);

(d) by deleting paragraph (c) of subsection (1) and substituting the following paragraph: 25

“(c) set such charges as the Town Council from time to time thinks fit for all or any of the following if prescribed by rules under section 57: 30

(i) for use of any common property within the Town or any part of the common property;

(ii) for use of any improvements made by the Town Council to that common property;

(iii) for such use of any services and facilities provided by the Town Council;”;

(e) by deleting subsection (2) and substituting the following subsections:

“(1A) However, nothing in subsection (1) confers any power on a Town Council to wholly remove, demolish or destroy, without the prior consent of the Board, any recreational equipment or other installation or structure that —

(a) is situated on any common property in a housing estate within its Town; and

(b) is not constructed by the Town Council.

(2) A Town Council may —

(a) manage or maintain —

(i) any parking place and industrial property, or any market or food centre, of the Board upon terms and conditions agreed between the Town Council and the Board; or

(ii) any market or food centre of the Government upon terms and conditions agreed between the Town Council and the Government; or

(b) carry out such other works on any common property of the housing estates within the Town on behalf of the Board upon terms and conditions agreed between the Town Council and the Board.”;



- (f) by deleting the words “public authority” wherever they appear in subsection (3) and substituting in each case the words “statutory authority”; and
- (g) by deleting subsection (4) and substituting the following subsections:

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“(4) Except with the prior approval of the Minister, and despite subsection (1)(f), a Town Council for a Town has no power to carry on substantial trading or financial activities other than —

- (a) activities relating to the control, management, maintenance and improvement of the common property of the residential and commercial property in the housing estates of the Board within the Town;
- (b) activities to keep that common property in a state of good and serviceable repair and in a proper and clean condition; or
- (c) activities expressly permitted under any provision of this Act.

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(5) Despite subsection (1)(c), a Town Council is not entitled to demand or take from —

- (a) the Board (or any of its contractors or agents) a charge for carrying out an activity on any part of the common property within the Town for which the Town Council is established, where the activity is carried out in the course of performing the functions or duties of the Board; or
- (b) any other person a charge for a use that is not prescribed by rules under section 57 for the purposes of subsection (1)(c).

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(6) A Town Council that demands or takes a charge in contravention of subsection (5) shall be guilty of an

offence and shall be liable on conviction to a fine not exceeding \$5,000.

(7) Upon conviction of a Town Council for an offence under subsection (6) for taking a charge from any person, the Court may, in addition to any penalty that may be imposed under that subsection, order the Town Council to refund to that person the charge taken.”.

### **Amendment of section 20**

**13.** Section 20 of the principal Act is amended —

(a) by inserting, immediately after subsection (1), the following subsections:

“(1A) However, an individual is disqualified from being appointed under subsection (1) as, and must stop being, the secretary to a Town Council if the individual —

(a) is appointed under section 38(1) as the auditor of the Town Council;

(b) is or becomes the managing agent of the Town Council; or

(c) is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent of the Town Council.

(1B) The individual appointed as the secretary to a Town Council must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form prescribed by rules under section 57 and deliver the declaration to the Minister.”; and

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

“(3) However, an individual is disqualified from being appointed under subsection (2) as, and must cease to be, a relevant key officer of a Town Council if the individual —

- (a) is appointed under section 38(1) as the auditor of the Town Council; 5
- (b) is or becomes the managing agent of the Town Council; or
- (c) is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent of the Town Council. 10

(4) The individual appointed as a relevant key officer of a Town Council must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form prescribed by rules under section 57 and deliver the declaration to the Minister. 15

(5) In this section, “relevant key officer” means an individual occupying a position (however designated) of — 20

- (a) the general manager of the Town Council;
- (b) a finance manager of the Town Council; or
- (c) a deputy of the general manager or finance manager of the Town Council.”. 25

## **New sections 21A and 21B**

**14.** The principal Act is amended by inserting, immediately after section 21, the following sections:

### **“Interaction between Town Council and statutory authorities**

**21A.—**(1) A Town Council must, in the exercise of its powers and the performance of its functions and duties under this Act in relation to the residential property and commercial property in

the housing estates of the Board within its Town, work cooperatively and in collaboration with the following for the benefit of the residents of those estates:

- 5           (a) the Board in the discharge of the Board's functions under the Housing and Development Act (Cap. 129);
- (b) any statutory authority or public officer performing functions (but without specific power) under any written law for any of the following purposes:
  - 10           (i) securing public safety and ensuring public order in or around the Town;
  - (ii) preventing disease or injury, or creating and maintaining a healthy environment in or around the Town;
  - 15           (iii) urban development that integrates electronic, information and communication technologies so as to improve quality of life for residents in and around the Town.

(2) Where —

- 20           (a) the Board, or a statutory authority or public officer mentioned in subsection (1)(b), intends to perform within the Town for which a Town Council is established, a function under any written law for any of the purposes mentioned in subsection (1)(a) or (b), as the case may be;
- 25           (b) the Board, or the statutory authority or public officer, has given to the Town Council a notice of its or the officer's intention to perform that function on or in relation to the common property of the residential and commercial property in the housing estates of the Board within the Town; and
- 30           (c) the Town Council has unreasonably delayed, hampered or prevented the performance of that function on or in relation to that common property,

the Board, or the statutory authority or public officer (as the case may be) with the consent of the Board, may give notice to the Town Council concerned requiring the Town Council (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the notice as to facilitate or enable the Board, or the statutory authority or public officer (as the case may be), to so perform that function. 5

(3) If a notice given to a Town Council under subsection (2) is not complied with, the Board, or the statutory authority or public officer (as the case may be) may — 10

(a) carry out, or cause to be carried out all or any of the things as are specified in the notice, and perform its or the officer's function on or in relation to the common property of the residential and commercial property in the housing estates of the Board within the Town; and 15

(b) recover all expenses reasonably incurred by the Board, or the statutory authority or public officer (as the case may be) carrying out those things.

(4) Without affecting subsection (3), if a Town Council fails, without reasonable excuse, to comply with the requirements of a notice given to it under subsection (2), that Town Council shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction. 20 25

(5) To avoid doubt, this section is in addition to, and not in derogation of, any other written law that makes it an offence to obstruct or impede a public officer or statutory authority or the Board, or an officer of a statutory authority or the Board, in the performance of its or the officer's public function. 30

(6) This section does not apply to or in relation to any emergency-related purpose within the meaning of section 21B.

(7) To avoid doubt, this section does not prohibit a Town Council from proposing reasonable terms and conditions for carrying out activities mentioned in section 19(2) or (3). 35

## **Direction to Town Councils for emergency-related measures**

**21B.**—(1) The Minister may, by written direction given to a Town Council —

5           (a) require the Town Council to prepare itself to deal with specified kinds of emergency-related purposes; or

          (b) require that —

                  (i) access be given to specified kinds of services by the Town Council for specified kinds of emergency-related purposes; or

10                   (ii) priority of access be given to specified kinds of services by the Town Council for specified kinds of emergency-related purposes.

          (2) Every direction under subsection (1)(b) must specify the Ministry, department or statutory authority to whom access, or priority of access, must be given.

          (3) The manner in which those preparations are to be made or that access, or priority of access, is to be given must be set out in the direction under subsection (1).

20           (4) The terms and conditions on which the preparations are to be made or that access, or priority of access, is to be given must be set out in the direction under subsection (1).

          (5) A Town Council must comply with every direction given to it under subsection (1).

25           (6) A Town Council that fails to comply with any direction of the Minister given under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

30           (7) In this section, “emergency-related purpose” means a purpose related to the management of —

          (a) a public health emergency within the meaning of the Infectious Diseases Act (Cap. 137);

- (b) a civil defence emergency within the meaning of the Civil Defence Act (Cap. 42); or
- (c) any other public emergency (natural or otherwise).”.

**Amendment of section 24**

15. Section 24 of the principal Act is amended —

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- (a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) Every Town Council must have by-laws for the purpose of the management, administration, control, use or enjoyment of the common property of the residential and commercial property in the housing estates of the Board within the Town for the benefit of the residents of those estates.

10

(1A) With effect from the date of commencement of section 15(a) of the Town Councils (Amendment) Act 2017, the by-laws in force for every Town Council are the model by-laws prescribed by rules under section 57 for the purpose in subsection (1), subject to any additional by-laws, or change to the model by-laws, made by the Town Council under subsection (1C).

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20

(1B) The model by-laws prescribed by rules under section 57 for the purpose in subsection (1) are deemed made by every Town Council.

(1C) A Town Council for a Town may make additional by-laws or change any model by-laws for the purpose in subsection (1), including all or any of the following:

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- (a) restricting or prohibiting behaviour or activities on any common property;
- (b) restricting or prohibiting parking of vehicles on any common property;

30

- (c) other details of any common property of which the use is restricted;
- (d) waste disposal;
- (e) safety and security measures,

5 but any additional by-law or change so made must not be inconsistent with the model by-laws.

(2) In addition, a Town Council for a Town may make by-laws, and from time to time change by-laws, for or in respect of all or any of the following matters:

- 10 (a) prescribing the particular by-laws made for the purpose in subsection (1) (including a model by-law) breach of which is a compoundable offence;
- 15 (b) prescribing rates or amounts of conservancy and service charges in respect of every flat in any residential or commercial property, and every stall in any market or food centre of the Board, within the Town;
- 20 (c) prescribing the administrative fee to be paid by any person in respect of any services provided by the Town Council or any debt due to the Town Council;
- 25 (d) prescribing the penalty (such penalty, if unpaid, to constitute a debt due to the Town Council and be recoverable as such) to be paid by the Town Council's licensees or by any owner or tenant of any flat leased from the Board for late payment of any conservancy and service charges or licence fee due to the Town Council;
- 30 (e) requiring deposits to be placed with the Town Council by any owner or tenant of any flat leased from the Board to secure the



payment of conservancy and service charges.”;

- (b) by inserting, immediately after the words “made by that Town Council” in subsection (3)(a) and (b), the words “for the purpose in subsection (1)”;
- (c) by deleting the words “by-law or amendment of or addition to or revocation of or substitution for any by-law made” in subsection (4) and substituting the words “additional by-law or change to the model by-laws made under subsection (1C), and every by-law made or changed under subsection (2),”;
- (d) by deleting the words “by-law or amendment of or addition to or revocation of or substitution for any by-law of” in subsection (6) and substituting the words “additional by-law or change to the model by-laws made under subsection (1C), and every by-law made or changed under subsection (2), by”;
- (e) by deleting the words “by-law made by a Town Council” in subsection (7) and substituting the words “additional by-law or change to the model by-laws made by a Town Council under subsection (1C)”;
- (f) by inserting, immediately after the words “made by a Town Council or makes default in complying with any of the by-laws” in subsection (9), the words “made by a Town Council for the purpose in subsection (1) or makes default in complying with any of those by-laws”; and
- (g) by deleting subsection (10) and substituting the following subsection:
- “(10) In this section —
- (a) “flat” includes any stall in any market or food centre of the Board; and
- (b) “change”, in relation to by-laws, means amend or revoke the by-laws or add to the by-laws.”.

## Repeal and re-enactment of section 31

16. Section 31 of the principal Act is repealed and the following section substituted therefor:

### “Committees

5       **31.**—(1) A Town Council may, by resolution, appoint such number of committees as it thinks fit for purposes which, in the opinion of the Town Council, would be better regulated and managed by means of such committees.

10       (2) Subject to subsections (3) and (4), a committee appointed by a Town Council under this section may consist of such number of individuals as the Town Council thinks fit, and may include individuals who are not members.

15       (3) At least one-third of the members of each committee formed under this section must be members of the Town Council, and where a committee is formed under this section by a Town Council for any of the following matters:

- (a) internal audit;
- (b) finance;
- (c) procurement of goods or services;
- 20       (d) publicity and public relations;
- (e) estate management,

the chairperson of each such committee must be a member of the Town Council.

25       (4) An individual is disqualified from being appointed as a committee member under this section, and must cease to be such a committee member, if the individual —

- (a) is appointed under section 38(1) as the auditor of the Town Council;
  - (b) is or becomes the managing agent of the Town Council; or
- 30

(c) is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent of the Town Council.

(5) Every individual who is appointed as a committee member under this section must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form prescribed by rules under section 57 and deliver the declaration to the Minister. 5

(6) Each member of a committee formed under this section has one vote at meetings of the committee. 10

(7) In addition to his general vote, the chairperson, or member of a committee presiding at a meeting, of the committee has, in the case of an equality of votes, a casting vote.

(8) Subject to this Act and any restriction in a resolution under subsection (1), a committee formed under this section may regulate its own proceedings and business as it thinks fit.”. 15

### **Amendment of section 32**

17. Section 32 of the principal Act is amended —

(a) by deleting the words “or any other Act vested in the Town Council” in subsections (1) and (2) and substituting in each case the words “(except a restricted power)”; 20

(b) by deleting the words “or any other Act” in subsection (3); and

(c) by inserting, immediately after subsection (4), the following subsection: 25

“(5) In this section, a restricted power is the power of a Town Council under this Act to make by-laws, and the power of delegation conferred by this section.”.

### Amendment of section 33

18. Section 33 of the principal Act is amended —

5 (a) by deleting the words “for improvements to and the management and maintenance of residential property and of commercial property” in subsection (4) and substituting the words “, each for residential property and for commercial property in the housing estates of the Board within the Town, to meet the expenditure and liabilities mentioned in subsection (6)(a)”;

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

15 “(4A) From 1 April 2017, every Town Council must also establish and maintain, as part of the Town Council Fund, a sinking fund called a lift replacement fund, each for residential property and for commercial property in the housing estates of the Board within the Town —

(a) to meet the cost of —

20 (i) any capital expenditure (including works, plant, equipment, appliances and insurance premiums) related to the replacement of lifts in those residential property or commercial property; or

25 (ii) lift upgrading works under Part IVA in those residential property or commercial property; and

30 (b) to pay any principal or interest on moneys borrowed or raised by the Town Council for any capital expenditure mentioned in paragraph (a).

(4B) From 1 April 2017, every Town Council must pay into the lift replacement fund an amount out of moneys in the Town Council’s sinking funds

established under subsection (4), being not less than an amount prescribed.”;

- (c) by inserting, immediately after the words “the sinking funds” in subsection (5), the words “and the lift replacement funds established under subsections (4) and (4A), respectively,”; 5
- (d) by deleting the words “, lightning protection system and lifts” in subsection (6)(a)(ii) and substituting the words “and lightning protection system”;
- (e) by deleting the words “lift upgrading works under Part IVA and” in subsection (6)(a)(iii); 10
- (f) by deleting the word “or” at the end of subsection (6)(a)(iv) and (b)(i);
- (g) by inserting, immediately after sub-paragraph (v) of subsection (6)(a), the following sub-paragraph: 15
- “(vi) paying at the end of a financial year surpluses to any lift replacement fund as authorised by subsection (9) or by the Financial Rules;”;
- (h) by inserting, immediately after paragraph (a) of subsection (6), the following paragraph: 20
- “(aa) from a lift replacement fund except for the purposes specified in subsection (4A)(a) and (b); or”;
- (i) by deleting the full-stop at the end of sub-paragraph (ii) of subsection (6)(b) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph: 25
- “(iii) paying at the end of a financial year surpluses to any sinking fund or lift replacement fund as authorised by subsection (9) or by the Financial Rules.”; 30

(j) by deleting the words “subsection (6)(a) or (b)” in subsection (6A) and substituting the words “subsection (6)(a), (aa) or (b)”;

(k) by deleting subsections (6B) and (7) and substituting the following subsection:

“(7) Despite anything in this section, a Town Council may, with the approval or on the direction of the Minister, disburse moneys from an operating fund of the Town Council —

(a) to erect, install or plant (including landscaping) any facility;

(b) to demolish and relocate any facility; or

(c) to repair and maintain any facility erected, installed or planted,

within the Town but outside of the common property of the residential and commercial property in the housing estates of the Board within the Town, provided that the owner of the property on which the facility is erected, installed or planted consents.”;

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

“(9) If at the end of a financial year of a Town Council, there is a surplus in an operating fund of the Town Council, or a surplus in a sinking fund of the Town Council established under subsection (4), the Town Council may do the following, whichever is applicable:

(a) transfer the whole or part of the surplus in the operating fund to a sinking fund established under subsection (4) or (4A);

(b) transfer the whole or part of the surplus in a sinking fund established under subsection (4) to a lift replacement fund established under subsection (4A) to make

good any deficit in the lift replacement fund.”;

(m) by deleting the words “section 3(2)” in subsection (11) and substituting the words “section 3(1)”; and

(n) by deleting the full-stop at the end of the definition of “designated land” in subsection (12) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““operating fund”, for a Town Council, means a fund that is established as part of the Town Council Fund of the Town Council but is not a sinking fund established by the Town Council under subsection (4) or (4A).”.

#### **Amendment of section 34**

**19.** Section 34(9) of the principal Act is amended by deleting the definition of “sinking fund” and substituting the following definition:

““sinking fund” means a sinking fund established under section 33(4) or a lift replacement fund established under section 33(4A);”.

#### **Repeal and re-enactment of section 35**

**20.** Section 35 of the principal Act is repealed and the following section substituted therefor:

##### **“Accounts and records**

**35.—**(1) Every Town Council has a duty to ensure that there are kept in accordance with the Financial Rules —

(a) proper accounts and records of the transactions and affairs of the Town Council; and

(b) proper and separate accounts for each of the funds established under section 33(1), (4) and (4A).

(2) A Town Council has a duty to do all things necessary to —

(a) ensure that all money payable to the Town Council is properly collected;

- (b) ensure that appropriate arrangements are implemented for the security of all money received by the Town Council;
- 5 (c) ensure that all money expended by the Town Council is correctly spent and properly authorised;
- (d) ensure that adequate control is maintained over assets owned by or in the custody or control of the Town Council;
- 10 (e) ensure that all liabilities incurred by the Town Council are properly authorised; and
- (f) ensure that its accounts and records are kept up-to-date and ready for inspection at any time by its auditor, an inspector or any other person authorised by or under this Act or any other written law to inspect those
- 15 accounts and records.”.

### **Amendment of section 38**

#### **21. Section 38 of the principal Act is amended —**

- (a) by deleting the words “by the Minister in consultation with” in subsection (1) and substituting the words “by the
- 20 Town Council with the approval of the Minister after the Minister has consulted”; and
- (b) by deleting subsections (11), (12) and (13) and substituting the following subsections:

25 “(11) The following must be given by a Town Council to the Minister within 6 months after the close of the financial year to which the accounts and financial statements relate, or such longer period as the Minister may in any particular case allow:

- 30 (a) a copy of the audited accounts and financial statements of the Town Council, signed by the chairman of and the secretary to the Town Council;
- (b) a copy of the report made by the auditor.



(12) The Minister must, as soon as practicable, cause a copy of the audited accounts and financial statements and of the auditor’s report mentioned in subsection (11) to be presented to Parliament.

(13) Where the Auditor-General is not the auditor of a Town Council, a copy of the audited financial statements and any report made by the auditor must be forwarded to the Auditor-General at the same time they are submitted to the Minister under subsection (11).

(13A) Within 30 days after a copy of the audited accounts and financial statements of a Town Council, and a copy of the auditor’s report, mentioned in subsection (11) are presented to Parliament, the Town Council must —

- (a) display them for public inspection in such places within the Town as the Town Council may direct; and
- (b) publish them at an online location accessible to residents of the housing estates within the Town.

(13B) A Town Council which, without reasonable excuse, is persistently in default in relation to the requirement imposed by subsection (11), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.”.

#### **Amendment of section 40**

**22.** Section 40 of the principal Act is amended by deleting the words “section 33(6)(a)” in paragraph (a) and substituting the words “section 33(4A)(a) or (6)(a)”.

### Amendment of section 43

23. Section 43 of the principal Act is amended —

(a) by deleting the words “this Act or any other Act” and substituting the words “this Part”;

5 (b) by deleting the words “books and documents whatever” in paragraph (c) and substituting the words “accounts, books and other documents”;

(c) by deleting the word “and” at the end of paragraph (e);

10 (d) by deleting the full-stop at the end of paragraph (f) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

15 “(g) a requirement that a Town Council must prepare and keep up-to-date a long-term financial plan that relates to a period to be prescribed and containing prescribed information about the Town Council’s proposals for the repair, maintenance, management and improvement of common property within its Town for each financial year of the period to which the plan relates;

20 (h) requirements for a Town Council which is or is likely to become insolvent, or which is or is likely to become unable to pay its debts (within the meaning as prescribed) —

25 (i) to report to the Minister of that fact; and

30 (ii) to do or not to do any act or thing prescribed (which may include preparing a debt repayment plan and appointing one or more advisers to advise the Town Council on the proper management of its business);

(i) the circumstances under which a surplus in —

(i) an operating fund established for residential property in the housing estates of the Board within a Town may be transferred to an operating fund established for commercial property in those housing estates, and vice versa; 5

(ii) a sinking fund established under section 33(4) for residential property in the housing estates of the Board within a Town may be transferred to a sinking fund established under that provision for commercial property in those housing estates, and vice versa; or 10 15

(iii) a lift replacement fund established under section 33(4A) for residential property in the housing estates of the Board within a Town may be transferred to a lift replacement fund established under that provision for commercial property in those housing estates, and vice versa; and 20 25

(j) the apportioning of moneys in the Town Council Fund for the purposes of section 34.”; and

(e) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection: 30

“(2) In addition, the Financial Rules may —

(a) provide that any contravention of any provision of the Financial Rules shall be

an offence punishable with a fine not exceeding \$5,000; and

(b) provide for such saving, transitional and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.”.

## **New Part VIA**

**24.** The principal Act is amended by inserting, immediately after section 43, the following Part:

### **“PART VIA**

#### **INSPECTION AND OFFICIAL MANAGEMENT OF TOWN COUNCILS**

##### **Compliance reviews**

**43A.—**(1) The Minister may establish a program of compliance reviews for Town Councils, the purpose of which is to ensure that the Town Councils conduct their business in accordance with this Act, the Financial Rules and rules made under section 57.

(2) A compliance review is to be carried out by an inspector, or 2 or more inspectors, assigned to the review by the Minister.

(3) The inspector or inspectors assigned under subsection (2) to carry out a compliance review of a Town Council must report to the Minister and the Town Council on the results of the compliance review.

(4) The results of a compliance review of a Town Council must be given to the Town Council, and may contain recommendations for administrative or regulatory change.

(5) The members, secretary, employees, key officers and committee members of a Town Council, or a managing agent of a Town Council and its employees (as the case may be) must, at the request of an inspector assigned to carry out a compliance review of the Town Council —

- (a) do anything reasonably necessary to facilitate the exercise of powers of the inspector under this section;
  - (b) answer questions relevant to the compliance review asked by the inspector;
  - (c) produce specified records or documentary material relevant to the compliance review; 5
  - (d) give other assistance the inspector reasonably requires; or
  - (e) do any combination of paragraphs (a) to (d).
- (6) An inspector conducting a compliance review of a Town Council may by notice require any person mentioned in subsection (5) — 10
- (a) to furnish accounts and statements in writing with respect to any matter in question at the compliance review, being a matter on which that person has or can reasonably obtain information; 15
  - (b) to return answers in writing to any questions or inquiries addressed to the person on any matter mentioned in paragraph (a);
  - (c) to furnish copies of documents in the person's custody or under the person's control which relate to any matter in question at the compliance review; 20
  - (d) to attend at a specified time and place and give evidence or produce any such documents; or
  - (e) to verify by statutory declaration any such accounts, documents, statements or answers furnished, returned or given under paragraph (a), (b), (c) or (d), as the case may be. 25

### **Investigations**

- 43B.**—(1) The Minister may direct an investigation under this Part into the affairs of a Town Council if — 30

(a) there are reasonable grounds to suspect a material irregularity in or affecting the conduct of the Town Council's affairs; or

5 (b) any document or information the production of which has been required of a person under section 43A has not been produced in compliance with that requirement, and the inspector concerned has reasonable grounds to believe that the person will not produce the document or information in  
10 compliance with that requirement.

(2) An investigation under subsection (1) is to be carried out by an inspector, or 2 or more inspectors, assigned to the investigation by the Minister.

15 (3) The inspector or inspectors assigned under subsection (2) to carry out an investigation of a Town Council must report to the Minister and the Town Council on the results of the investigation.

### **Powers of inspectors in investigations**

20 **43C.**—(1) For the purposes of an investigation of a Town Council, an inspector assigned to carry out the investigation has right of access at any reasonable time in the day, and after giving 6 hours' prior notice of the exercise of the right to access at any other time, to —

(a) the premises of the Town Council concerned; and

25 (b) the records or other documents of the Town Council, whether or not on the premises of the Town Council concerned.

(2) The members, secretary, employee, officers and committee members of a Town Council, or a managing agent of a Town Council and its employees (as the case may be) must, at the  
30 request of an inspector —

(a) do anything reasonably necessary to facilitate the exercise of powers of the inspector under this section;

- (b) answer questions relevant to the investigation asked by the inspector;
- (c) produce specified records or documents relevant to the investigation;
- (d) give other assistance the inspector reasonably requires; or 5
- (e) do any combination of paragraphs (a) to (d).

(3) For the purposes of an investigation of a Town Council, an inspector assigned to carry out the investigation may, by notice, require — 10

- (a) a person to produce, within a reasonable time allowed in the notice, written answers to specified questions or other specified written information, which are within the knowledge of that person or in the person's custody or under the person's control; 15
- (b) a person within Singapore who appears to be acquainted with the circumstances of the investigation to attend before the inspector at a specified time and place for examination on a subject stated in the notice; or 20
- (c) a person to produce, within a reasonable time allowed in the notice, specified records or documents or records or documents of a specified kind, which are within the custody or under the control of that person.

(4) The power to require a person to produce any record, document or information under subsection (2) or (3) includes the power — 25

- (a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the record, document or information; 30
- (b) if the record, document or information is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the inspector in legible form.

5 (5) A person required by notice under subsection (3) to provide written answers to questions or other written information must, if the notice requires, verify the answers or information by statutory declaration.

(6) A person who, in response to a notice under subsection (3), attends for examination before an inspector —

10 (a) must, if the inspector so requires, take an oath or make an affirmation (which may be administered by the inspector) to answer truthfully all questions put to the person by the inspector; and

15 (b) must answer questions put to the person at the examination.

(7) Any statement made by a person at an examination before an inspector must —

(a) be reduced to writing;

(b) be read over to the person;

20 (c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

(d) after correction, if necessary, be signed by that person.

25 (8) If an inspector considers it necessary to do so for the purpose of obtaining evidence of the contravention of any provision of this Act, the inspector may seize any equipment, record, document, information or other thing.

30 (9) An inspector may, at any time after the expiry of the period specified in the notice mentioned in subsection (3), enter any building or place where the inspector has reason to believe that any record, document or information, in respect of which the inspector has given the notice, may be found, and seize or take extracts or copies of any such record, document or information.



(10) An inspector is entitled without payment to keep any record, document or information, or any copy or extract of it, furnished to the inspector under subsection (2) or (3) or obtained under subsection (8) or (9).

### **Remedial action to rectify deficiencies**

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**43D.**—(1) This section applies where, from the report of a compliance review under section 43A or an investigation under section 43B or otherwise, the Minister is of the opinion —

(a) that deficiencies have been identified in the conduct of a Town Council’s affairs and that action must be taken to address them; or

10

(b) an irregularity has occurred, or is occurring, in the administration of a Town Council’s financial affairs.

(2) The Minister may by order (called in this Part a rectification order) given in writing to the Town Council, require the Town Council —

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(a) to take specified remedial action to address the deficiencies within a specified period and to report to the Minister, at the end of the specified period (called the compliance date), on the action taken to give effect to the requirement; or

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(b) to take specified action to correct the irregularity or to guard against the recurrence of irregularities (or both) at the end of the specified period (called the compliance date).

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(3) The Minister may, on application by the Town Council concerned, postpone the compliance date from time to time.

(4) If a Town Council fails to comply with a rectification order by the compliance date, the Town Council shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction.

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## Inspectors of Town Councils

**43E.**—(1) The Minister may appoint as inspectors of Town Councils —

- (a) one or more public officers;
- 5 (b) one or more employees of the Board; or
- (c) one or more other individuals who have the suitable qualifications and experience to properly exercise the powers of inspectors of Town Councils.

(2) The functions of an inspector of Town Councils are —

- 10 (a) to carry out compliance reviews under this Part; and
- (b) to investigate suspected irregularities in or affecting the conduct of a Town Council's affairs.

(3) An inspector of Town Councils may be accompanied by one or more police officers, auxiliary police officers and public accountants to assist the inspector in the discharge of the inspector's functions.

(4) Every inspector acting under section 43A or 43C is deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

(5) No liability shall be incurred by an inspector as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- 25 (a) the exercise or purported exercise of any power under this Part; or
- (b) the performance or purported performance of any function or duty under this Part.

## Offences

**43F.**—(1) Any person who, without reasonable excuse, fails to do anything required of the person by notice under section 43A(6) or 43C(3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to

imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction.

(2) Any person who —

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(a) intentionally alters, suppresses or destroys any document or information which the person has been required by a notice under section 43A(6) or 43C(3) to furnish; or

(b) in furnishing any document or information required under section 43A(6) or 43C(3), makes any statement which the person knows to be false in a material particular or recklessly makes such a statement,

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shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

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(3) If any person fails to comply with a notice under section 43A(6) or 43C(3), the court may, on the application of an inspector, make such order as the court thinks fit to secure compliance with such notice, and any such order may provide that all the costs and expenses of and incidental to the application must be borne by such person or by any officer of a company or other association who is responsible for the failure.

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(4) A person is not excused from answering a question or producing evidential material in response to a notice or requirement made by an inspector under this Part on the ground that the answer, or the production of the material, might tend to incriminate the person.

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(5) Where a person claims, before answering a question or producing evidential material that the person is required by an inspector under this Part to give, that the answer or the production of evidential material might tend to incriminate the person —

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(a) that answer or evidential material;

(b) the giving of the answer or production of evidential material; and

(c) any information, document or thing obtained as a direct or indirect consequence of the giving of the answer or the production of evidential material,

are not admissible in evidence against that person in any civil proceedings or any criminal proceedings other than proceedings for an offence in respect of the falsity of the answer or evidential material produced.

(6) Subsection (5) applies despite any other written law.

### **Official management of Town Councils**

**43G.**—(1) If the Minister is satisfied —

(a) that a Town Council has failed to keep or maintain any part of the common property of any residential or commercial property in the housing estates of the Board within the Town of the Town Council in a state of good and serviceable repair and in a proper and clean condition; or

(b) that any duty of a Town Council must be carried out urgently in order to remove any danger to the health or safety of residents of the housing estates of the Board within the Town of the Town Council, and that the Town Council refuses or is unable to carry out that duty,

and the Minister is of the opinion that it is inappropriate for the Town Council to continue without official management, the Minister may, by notice in the *Gazette*, place the Town Council under official management.

(2) Before placing a Town Council under official management, the Minister must give at least 7 days' notice in writing to the chairman of the Town Council concerned —

(a) stating that the Minister intends to place the Town Council under official management; and

(b) specifying the time (not more than 7 days after the date of service of the notice on the Town Council) within which written representations may be made to the Minister by or on behalf of the Town Council with respect to the proposed official management.

5

(3) When the Minister places a Town Council under official management, all members of the Town Council are suspended from office unless the Minister indicates otherwise, and the Minister must appoint a suitable person to manage the affairs, business and property of the Town Council (called in this Part an official manager).

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(4) Any decision of the Minister under subsection (1) is final.

(5) An official manager ceases to manage the affairs, business and property of the Town Council when the Minister is satisfied that the reasons for the official manager's appointment have ceased to exist or the appointment is earlier revoked by the Minister.

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(6) Where by reason of subsection (5), an official manager ceases to manage the affairs, business and property of a Town Council, the Minister must without delay cause to be published a notice to that effect —

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(a) in the *Gazette*; and

(b) in such other manner as will secure adequate publicity for that ceasing.

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### **Official manager**

**43H.**—(1) An official manager appointed under section 43G for a Town Council has full power to transact any business of the Town Council and to do anything else the Town Council could have done but for the suspension of its members.

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(2) An official manager appointed under section 43G for a Town Council may act in the official manager's own name, or in the name of the Town Council, and despite section 6, may execute a document under the common seal of the Town Council.

5 (3) The Minister may at any time fix the terms and conditions of the appointment of an official manager, including (whether or not the appointment of the person has terminated) the remuneration to be paid to the official manager.

10 (4) The remuneration of an official manager appointed under section 43G for a Town Council is payable from the Town Council Fund of the Town Council.

(5) Any decision of the Minister under subsection (3) is final.

15 (6) No liability shall be incurred by an official manager as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(a) the exercise or purported exercise of any power under this Part; or

20 (b) the performance or purported performance of any function or duty under this Part.”.

### **New section 48A**

**25.** The principal Act is amended by inserting, immediately after section 48, the following section:

#### **“Personal liability of members, etc., for certain offences**

25 **48A.**—(1) Where a Town Council commits an offence under section 21A(4) or 43D(4), an individual —

(a) who is the chairman of, or secretary to, a Town Council, or who was purporting to act in any such capacity; and

(b) who —

- (i) consented or connived to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the Town Council; or 5
- (iii) knew or ought reasonably to have known that the offence by the Town Council (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence, 10

shall be guilty of that same offence as is the Town Council, and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction. 15

(2) Where a Town Council commits a relevant offence, an individual — 20

- (a) who is the chairman of, or secretary to, a Town Council, or who was purporting to act in any such capacity; and
- (b) who — 25
  - (i) consented or connived to effect the commission of the offence;
  - (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the Town Council; or 30
  - (iii) knew or ought reasonably to have known that the offence by the Town Council (or an offence of the same type) would be or is being

committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of that same offence as is the Town Council, and shall be liable on conviction to a fine not exceeding \$5,000.

(3) In subsection (2), “relevant offence” means an offence —

(a) under section 19(6), 21B(6), 33(6A) or 38(13B);

(b) under the Financial Rules made under section 43; or

(c) under any rules made under section 57 about the governance of Town Councils.

(4) To avoid doubt, subsections (1) and (2) do not affect the liability of a Town Council for an offence mentioned in that subsection, and apply whether or not the Town Council is convicted of the offence.

(5) To avoid doubt, this section also does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.”.

## **Amendment of section 49**

**26.** Section 49 of the principal Act is amended —

(a) by deleting the words “under this Act or any by-law made by it which is prescribed” and substituting the words “under any by-law made by it for a purpose mentioned in section 24(1) and which is prescribed in those by-laws”;

(b) by deleting “\$1,000” and substituting “\$2,000”; and

(c) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) A public officer authorised by the Minister may compound any offence under this Act or rules made under this Act that is prescribed under section 57 as a



compoundable offence, by collecting from a Town Council or other person reasonably suspected of having committed the offence a sum not exceeding the lower of the following amounts:

- (a) one half of the amount of the maximum fine that is prescribed for the offence; 5
- (b) \$2,000.

(3) On payment by a person to a Town Council or public officer, as the case may be, of a sum of money under subsection (1) or (2), no further proceedings shall be taken against that person in respect of the offence.”. 10

### **Repeal of section 50**

27. Section 50 of the principal Act is repealed.

### **New section 54A**

28. The principal Act is amended by inserting, immediately after section 54, the following section: 15

#### **“Handover notices of common property**

**54A.**—(1) This section applies only to and in relation to any part of a housing estate that is not comprised in any flat and that — 20

(a) is in a housing estate in respect of which a temporary occupation permit is issued on or after the date of commencement of section 28 of the Town Councils (Amendment) Act 2017; or 25

(b) is excluded (whether before, on or after the date of commencement of section 28 of the Town Councils (Amendment) Act 2017) under the definition of “common property” in section 2(1) from being regarded as common property — 30

(i) for a period;

(ii) because of the use or description of the part of the housing estate;

(iii) because of the status or description of the owner of the part of the housing estate; or

5 (iv) subject to any other condition (whether a condition precedent or a condition subsequent).

(2) Subject to subsections (4) and (5), the Board may —

10 (a) issue a handover notice in respect of any part of a housing estate of the Board that is not comprised in any flat and is within the area of a Town; and

(b) give that handover notice to the Town Council whose Town area includes that housing estate.

15 (3) The Town Council to whom a handover notice is given under this section in respect of any part of a housing estate of the Board assumes in relation to that part, with effect from the date specified in the handover notice, the functions of this Act relating to common property within its Town.

(4) A handover notice may be issued only as follows:

20 (a) for a part of a housing estate mentioned in subsection (1)(a), after a temporary occupation permit is issued in respect of that part of the housing estate;

25 (b) for a part of a housing estate mentioned in subsection (1)(b), after whichever the following first happens:

(i) when the specified period for the exclusion described in subsection (1)(b)(i) ends;

30 (ii) when there is a change in the use or description of the part of the housing estate as to render the part no longer within any use or description in any exclusion described in subsection (1)(b)(ii);

(iii) when there is a change to the status or description of the owner of the part of the

housing estate as to render the owner not having any status or meeting any description in any exclusion described in subsection (1)(b)(iii);

- (iv) when the condition (whether a condition precedent or a condition subsequent) subject to which the exclusion described in subsection (1)(b)(iv) is granted is first breached. 5

(5) Every handover notice issued under this section is irrevocable.

(6) In this section, “temporary occupation permit”, for a building or part of a building in a housing estate, means — 10

(a) a temporary occupation permit granted under the Building Control Act (Cap. 29) for the building or part of the building; or

(b) a certificate of statutory completion granted under that Act for that building or part of that building where no temporary occupation permit is so granted.”. 15

### **Amendment of section 55**

**29.** Section 55 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection: 20

“(1) To avoid doubt, any function, power, requirement or duty conferred on a Town Council by this Act must be performed or exercised in a way that is consistent with the title and rights of the Board as owner of the common property within the Town for which the Town Council is established.”; 25

- (b) by deleting the words “under subsection (1)” in subsection (2) and substituting the words “by order under section 3”; 30

- (c) by deleting subsection (3); and

(d) by deleting the section heading and substituting the following section heading:

**“Relationship between Board and Town Council”.**

5 **New sections 56A and 56B**

**30.** The principal Act is amended by inserting, immediately after section 56, the following sections:

**“Town Council’s address for service**

**56A.—**(1) Every Town Council must —

10 (a) ensure that notice of each of the following is given to the Minister:

(i) an address for the service of notices or documents;

15 (ii) a fax number for the service of notices or documents by fax;

(iii) an email address for the service of notices or documents by email; and

(b) cause to be constructed and maintained a receptacle suitable for the receipt of mail and other documents with the name of the Town Council clearly shown on the receptacle, at the address in paragraph (a)(i).

20

(2) A Town Council may from time to time change any address or fax number, as given to the Minister under subsection (1)(a), for the service of notices or documents on the Town Council.

25 (3) Where a Town Council has, under subsection (2), decided to change the address or fax number for the service of notices or documents on it, the Town Council must, within 7 days after deciding —

30 (a) notify the Minister of the change and the effective date of the change; and

(b) cause to be published (at the Town Council’s cost), before the change takes effect, a notice about the new

address or fax number for service of notices or documents on the Town Council and the effective date of the change, in a manner as will secure adequate publicity for the change.

**Service of documents and notices, etc.**

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**56B.**—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

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(a) by giving it to the individual personally;

(b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual's residential address or business address;

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(c) by leaving it at the individual's residential address with an adult apparently resident there, or at the individual's business address with an adult apparently employed there;

(d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address;

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(e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

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(f) by sending it by email to the last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

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(a) by giving it to any partner or other like officer of the partnership;

(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

5 (d) by sending it by email to the partnership's last email address.

(4) Subject to subsection (5), a document permitted or required by this Act to be served on a body corporate (including a limited liability partnership but not a Town Council) or an unincorporated association may be served —

10 (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

15 (b) by leaving it at, or by sending it by prepaid registered post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;

20 (c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or

(d) by sending it by email to the last email address of the body corporate or unincorporated association.

(5) A document permitted or required by this Act to be served on a Town Council may be served —

25 (a) by leaving it with the chairman of, or secretary to, the Town Council or in the receptacle provided by the Town Council under section 56A(1)(b);

30 (b) by leaving it at, or by sending it by prepaid registered post to, the Town Council at the last address notified to the Minister under section 56A(1) or (3);

(c) by sending it by fax to the last fax number notified to the Minister under section 56A(1) or (3); or

- (d) by sending it by email to the last email address of the Town Council notified to the Minister under section 56A(1) or (3).
- (6) Service of a document under this section takes effect —
- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission; 5
  - (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is addressed; or 10
  - (c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).
- (7) This section does not apply to —
- (a) a document to be served in proceedings in court; 15
  - (b) a written demand under section 39(6); or
  - (c) a notice of sale under section 24F(6) or 44(4).
- (8) In this section —
- “business address” means —
- (a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or 20
  - (b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore; 25
- “last email address” means —
- (a) the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act; or 30

- (b) the last email address of the addressee concerned known to the person giving or serving the document;

“residential address” means an individual’s usual or last known place of residence in Singapore.”.

### **Amendment of section 57**

**31.** The principal Act is amended by renumbering section 57 as subsection (1) of that section, and by inserting, immediately thereafter the following subsections:

“(2) In particular, the Minister may make rules under subsection (1) —

(a) prescribing model by-laws for the purpose of the management, administration, control, use or enjoyment of the common property of the residential and commercial property in the housing estates of the Board within a Town, which may include all or any of the following matters:

(i) restricting or prohibiting behaviour or activities on any common property;

(ii) restricting or prohibiting parking of vehicles on any common property;

(iii) other details of any common property of which the use is restricted;

(iv) waste disposal;

(v) safety or security measures;

(vi) conferring power on a Town Council to store or dispose of, or authorise the disposal of, goods left on common property with housing estates within its Town and the passing of title to any goods on such disposal;

(b) prescribing, for the purposes of section 19(1)(c), the different types of uses of any part of the common property within a Town, or for otherwise enjoying the



- benefit of any improvements by, or services and facilities provided by, a Town Council, including for different users or different types of common property, improvements, services or facilities within a Town, or in different parts of a Town; 5
- (c) about the governance of Town Councils, including requirements for the preparation and submission of documents or information in compliance with such governance requirements or best practices, and the periodic disclosure to the Minister of the level of such compliance by Town Councils; 10
- (d) prescribing a caretaker policy (and requirements for its adoption by a Town Council) governing the conduct of the Town Council and its officers and employees (including prohibiting the making of major policy decisions) during the caretaker period that — 15
- (i) starts on the issue of a writ of election for every constituency comprised in the Town for which the Town Council is established; and
- (ii) ends on the date that the elected members of a Town Council assume office for that Town Council after that election; 20
- (e) providing that any contravention of any provision of these rules shall be an offence punishable with a fine not exceeding \$5,000; and 25
- (f) providing such saving, transitional and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.
- (3) All rules made under this section are to be presented to Parliament as soon as possible after publication in the *Gazette*.”. 30

### **Repeal of Schedule**

- 32.** The Schedule to the principal Act is repealed.

### **Saving and transitional provisions**

33.—(1) Sections 7, 8(*d*), 13(*a*) and 16 do not require any individual who, on the eve of the respective dates of commencement of those sections, is an elected member of a Town Council, an appointed member of a Town Council, a secretary to a Town Council and a member of a committee established by a Town Council, respectively, to complete a declaration of acceptance until the individual ceases to hold that office and becomes an elected member of a Town Council or is re-appointed as an appointed member, a secretary to or a member of a committee of that Town Council, as the case may be.

(2) Sections 8(*c*), 13(*a*) and (*b*) and 16 do not disqualify any individual who, on the eve of the respective dates of commencement of those sections, is anyone of the following from continuing to hold that office or position on or after that date:

(*a*) an appointed member of a Town Council;

(*b*) a secretary to a Town Council;

(*c*) a key officer of a Town Council;

(*d*) a member of a committee established by a Town Council, provided that the individual gives to the Town Council, no later than 30 days after that date, a declaration whether the individual is subject to any disqualification in section 14, 20 or 31 of the principal Act as amended by this Act.

(3) On the date of commencement of section 15(*a*), all by-laws made by a Town Council for the purpose of the management, administration, control, use or enjoyment of the common property of the residential and commercial property in the housing estates of the Board within the Town cease to have force.

(4) Section 26(*b*) does not apply to any offence alleged to have been committed before the date of commencement of that section.

(5) For a period of 2 years after the date of commencement of any section of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that section as the Minister may consider necessary or expedient.

(6) Nothing in this section affects the operation of section 16 of the Interpretation Act (Cap. 1).

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Town Councils Act (Cap. 329A) —

- (a) to promote and strengthen effective and efficient governance and accountability of Town Councils;
- (b) to foster a culture of personal integrity and accountability for administrative officials of Town Councils;
- (c) to ensure financial and infrastructure sustainability and sound financial management and accountability among Town Councils;
- (d) to promote better governance, ensure a smooth handover of responsibilities between incoming and outgoing Town Councillors, and diminish any perception of abuse in decision-making powers during a caretaker period for a Town Council;
- (e) to introduce oversight mechanisms and monitoring powers over Town Councils; and
- (f) to clarify the role of Town Councils vis-à-vis other statutory authorities and in emergency planning.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to introduce various new definitions to support the amendments in the Bill.

Among the new terms is that of a “key officer” for a Town Council, which means the secretary to the Town Council or his or her deputy, an individual who occupies a position in the Town Council having the general control and management of the administration of the Town Council or his or her deputy, an individual who is primarily responsible for the finance matters of a Town Council (commonly called a finance manager) or his or her deputy, and a chairperson of any committee of a Town Council where formed under section 31 for internal audit, finance, procurement of goods or services, publicity and public relations or estate management.

The definition of “common property” is also amended in connection with new housing estates of the Housing and Development Board (HDB). The common property in these new housing estates will fall within the scope of common property and within a Town Council’s responsibility when a handover notice issued under the new section 54A (which is introduced by clause 28) takes effect.

Finally, a new section 2(5) is introduced to support the amendments in clauses 13 and 16 relating to disqualifications from being a secretary, key officer and committee member of a Town Council. The amendment defines when a person is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent or auditor of the Town Council.

This refers to a person who holds (whether in the person's own right or on behalf of any other person) an executive position (however designated) in the business of the managing agent or auditor e.g. a director, partner, manager or chief executive. Also included is a person who is entitled to exercise, by voting or otherwise and whether exercisable alone or in association with others, and whether in the person's own right or on behalf of any other person, any power to participate in any directorial, managerial or executive decision in the business of the managing agent or auditor. A substantial shareholder (within the meaning of section 81 of the Companies Act (Cap. 50)) of a managing agent or an auditor which is a company is also treated as being in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent or auditor of the Town Council.

Clause 3 amends section 3(1) to make it clear that a Town can be a single constituency, or 2 or 3 constituencies. The maximum number of 3 constituencies per Town is unchanged. As is the case in the Act today, there is no extra cap on the number of group representation constituencies (GRCs) that can form a Town.

Next, an amendment is made to clarify the uncertain impact on boundaries of Towns whenever constituency boundaries are changed under the Parliamentary Elections Act (Cap. 218) ahead of a revision of the registers of electors or general elections.

A new section 3(2) is introduced to provide that an order that declares a constituency to be, or to be comprised in, a Town is not invalidated by reason only of a change in the boundaries of the constituency pursuant to section 8 or 20A(1) of the Parliamentary Elections Act, but is to continue to be in force until amended or revoked after the first general election after the change in those electoral boundaries.

Section 3(3) is next amended to set out more precisely the time by which all Towns must be declared by the Minister in the event of a general election being declared. This is because some constituency boundaries (which form the Towns' boundaries) may change for the purposes of a general election and all Members of Parliament (MPs) who are elected members of a Town Council automatically cease to be Town Councillors when Parliament is dissolved for the general election.

The time for the Minister to declare a Town is the 14th day after the statement of poll and final results are published in the *Gazette* for the constituency or constituencies to form that Town. This recognises that a general election is a

collection of parliamentary elections following dissolution of Parliament and the legal feasibility of there being by-elections simultaneously in more than one constituency and that election results for a single constituency may be delayed even in a general election. For example, due to crisis events like a fire or inclement weather occurring during a poll, the election results for the affected constituency may be delayed in accordance with the Parliamentary Elections Act. In the latter event, the 14th day is reckoned after the last statement of poll and final results are published in the *Gazette* for the constituency or constituencies to form that Town.

A new section 3(3A) is introduced setting out clearly the saving, transitional and other supplementary arrangements that need to be provided each time Towns are reconstituted with different areas after a general election or after new arrangements are made by the respective MPs. These arrangements are vital to ensure a smooth handover of responsibilities between incoming and outgoing Town Councillors.

For example, an order reconstituting Towns may include provisions for the change of name of any Town Council, the dissolution of any Town Council, the sale, transfer or disposition of any property or rights and liabilities of the Town Council for the affected area, including property, rights and liabilities that would not otherwise be capable of being transferred, the apportionment or adjustment between Town Councils of property, income or expenditure, or rights and liabilities in connection with the affected area, the operation of the by-laws made by a Town Council for the affected area and for their amendment or revocation by another Town Council, even if the by-laws were not originally made by that Town Council, and the imposing of a duty on a Town Council to provide another Town Council with all such information and other assistance as other Town Council may reasonably require for the purposes of, or in connection with, the assumption of responsibility for the affected area.

As a result of this amendment, section 55 is amended by clause 29. The provisions on the dissolution of a Town Council now in section 55 are redundant because of the new section 3(3A).

Clause 4 repeals and re-enacts section 4 to make it clear that for every Town there is to be a Town Council which remains in existence unless it is dissolved. This reinforces the new section 3(2) and will negate any uncertainty for Towns whenever the electoral boundaries of constituencies comprised in those Towns are changed under the Parliamentary Elections Act ahead of a revision of the registers of electors or elections.

Clause 5 amends section 8 to clarify the maximum number of appointed Town Councillors a Town may have. There must be at least 6 appointed members for each Town; this is unchanged. The maximum number is 10 for each MP required to be returned at any parliamentary election for each constituency comprised in the Town of that Town Council, or 30 if the latter is higher.

For example, if a Town is made up of a single Member constituency, the maximum number of appointed members is 30. However, where a Town comprises a single Member constituency and a GRC for which 3 MPs are required to be returned at a parliamentary election for the GRC, the maximum number of appointed members is 40.

Clause 6 amends section 9 to state first, more precisely who the chairman of a Town Council is, and secondly, when the chairman assumes office.

Where the Town is made up of a single Member constituency, the MP for that constituency is the chairman of the Town Council for that Town for such time he or she is that MP. But where the Town is a single GRC, or is made up of 2 or 3 constituencies, the chairman must be chosen by the MPs for that GRC or those constituencies from among themselves. The selection has to be done before the prescribed time for a chairman to assume office, failing which the Minister will make the appointment.

The time when a chairman of a Town Council for a Town assumes that office depends on different circumstances. For a Town declared after a general election, the prescribed date to assume office is the 14th day after the date the election results for the constituency or constituencies comprised in the Town are declared. This coincides with the period when a Town must be declared after a general election. This is an improvement from the present law for a Town comprising a single Member constituency. As amended, the successfully returned MP does not immediately assume office as chairman of the Town Council but has the 13 days to find individuals to serve as appointed members.

For a Town comprising only a single Member constituency in which a by-election is held, the chairman, who will be the successfully returned candidate, assumes office on the day after the day that he or she is declared returned as the MP for that constituency under section 49(7E)(a) of the Parliamentary Elections Act if the local votes are conclusive of the election results, or under section 49A(5) of that Act if the overseas votes are material to the election outcome, whichever happens. If the Town comprises a single GRC, or 2 or 3 constituencies, the chairman assumes office on the 14th day after the date the election results for the constituency or constituencies in which a by-election is held are declared.

For a case where MPs wish to split their Towns into 2 or there is a merger of 2 small Towns, the time for a chairman to assume office is on the date the new Town for the Town Council is declared under section 3. As there can be cases where Towns merge or split, the chairman of the new Town Council assumes office on the date of the last change under section 3 to the boundaries of the area of the Town takes effect. This will be the case even if there is no change to the name of the affected Towns but there is a change in the boundaries because of a merger or split.

Finally, section 9(9) is amended to provide that the acting chairman of a Town Council who serves in place whenever a general election is called, will vacate office when the chairman assumes office under the amendments above.

Clause 7 repeals and re-enacts section 13 regarding when successfully returned candidates of a general election or by-election assume office as elected members of a Town Council.

The general rule today is that an elected member of a Town Council for a Town assumes office as such upon his or her election as an MP for a constituency comprised in that Town on the day after the election results for the constituency are declared. This is however not feasible when constituency boundaries change so substantially vis-à-vis the Town boundaries, and the general election takes place based on electoral boundaries that do not match the boundaries of the Towns established.

Thus, the new section 13 provides that an MP assumes office as an elected member of a Town Council for a Town declared after a general election, on the day the order made under section 3(3) declaring the Town takes effect. By this change, their assumption of office as elected Town Councillors will coincide neatly with the day the new or reconstituted Town is formed and when the Town Council is established for that new or reconstituted Town.

In the case of a Town comprising any constituency in which a by-election is held, the MP assumes office as an elected member on the day after the day that he or she is declared returned at the by-election as the MP for that constituency under section 49(7E)(a) of the Parliamentary Elections Act if the local votes are conclusive of the election results, or under section 49A(5) of that Act if the overseas votes are material to the election outcome, whichever happens. For all other cases, such as when a Town splits into 2 or amalgamates with another, the MP assumes office as an elected member on the day the Town is declared under section 3.

The existing rule that an elected member of a Town Council vacates office as such only when he or she ceases to be an MP for the constituency comprised within the Town for which the Town Council is established is unchanged. Similarly, there is retained the prohibition against resignation from office as an elected member of a Town Council.

Finally, the new section 13(4) imposes a new requirement that all elected members must, like the chairman and vice-chairmen of a Town Council, as soon as practicable after assuming office as an elected member, complete a declaration of acceptance of that office in the form prescribed in the rules made under section 57, and deliver the declaration to the Minister.

Clause 8 amends section 14 on the tenure of appointed members of Town Councils. The normal term of office of an appointed member is 2 years; this is unchanged. However, every appointed member of a Town Council now must cease

being such a member when the chairman assumes office after any general election or by-election in any constituency comprised within the Town. Section 14 is amended to align the terminal event with the amendments in clause 6 to section 9 that state more precisely when a Town Council chairman assumes office.

Section 14(8) is also amended to expand the disqualifications for appointed members of any Town Council to include being appointed as auditor of or as the managing agent of the Town Council, or being engaged for reward (whether monetary or otherwise) by the Town Council, or the Town Council's managing agent, to effect repairs to or carry out maintenance on property which the Town Council is required to do under the Act. An individual is also disqualified from being an appointed member if he or she is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent or auditor of the Town Council. This has been defined by amendments in clause 2.

However, an individual is not disqualified from being an appointed member of that Town Council merely by being an employee of the auditor or managing agent of a Town Council, or a sub-contractor of a Town Council's contractor.

Clause 9 repeals and re-enacts section 15 and introduces a new section 15A to deal with conflict of interests so as to maintain transparent, ethical and just decision-making processes for all Town Council matters.

The new section 15 states that a member of a Town Council who becomes aware of a conflict of interest in a question that has arisen or is about to arise before the Town Council must disclose the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict, and must not take part in the decision-making in a matter in which he or she has a conflict of interest.

The secretary to the Town Council has the duty to ensure that every disclosure is recorded in a register of interests, and is brought to the attention of the members presiding at a meeting of the Town Council at which that question arises or is to arise. Failure to do so without reasonable excuse is an offence that attracts a fine of up to \$5,000.

What amounts to a conflict of interest in a question arising for decision by a Town Council is where a member of the Town Council, or an associate of the member, has a personal or financial interest in how the question is decided. An associate is defined such as the member's spouse, sibling, parent or child or an individual with a similar close family relationship with the member, the member's partner, or a company in which the member is a director.

However, certain personal and financial interests do not constitute giving rise to a conflict of interest. These are —

- (a) an interest in the level of allowances or expenses to be set for members;



- (b) an interest that the member, or an associate of the member, shares in common with the general public or a substantial section of the public;
- (c) an interest of the member or an associate of the member in an appointment or a nomination for an appointment to a body with predominantly charitable objects, or any payment or reimbursement of membership fees, or expenses related to membership, in such a body; and
- (d) an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

The Minister may in rules made under section 57 prescribe additional interests that do not give rise to conflict of interest.

The new section 15A extends a similar conflict of interest rule for individuals who hold the office of the secretary to a Town Council, an employee or a staff or for the managing agent of a Town Council who has been delegated a power, function or duty of the Town Council under the Act, or a member of a committee of a Town Council who has been delegated a power, function or duty of the Town Council under the Act.

If any of these persons has a conflict of interest in a matter in which the person is conferred by or under the Act a power, function or duty, the person must not exercise or further exercise that power, or perform or further perform that function or duty, after the person becomes aware of a conflict of interest without the approval of the Town Council.

In the case of the secretary to a Town Council, or a member of a committee of a Town Council or the managing agent of a Town Council who is conferred by or under the Act a power, function or duty of the Town Council, the secretary, committee member or managing agent must disclose the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict. The disclosure must be made to the chairman of the Town Council (in writing) and also to the Town Council not later than at the next meeting of the Town Council.

In the case of an employee or a staff of a Town Council, he or she must disclose the fact, nature, character and extent of the personal or financial interest that gives rise to the conflict to the secretary to the Town Council in writing as soon as the employee or staff becomes aware of the conflict of interest.

Clause 10 introduces a new section 17A requiring a Town Council to give public notice about its elected and appointed members and key officers. Notice in English is to be given by affixing it to a conspicuous part of such buildings comprised within its Town as will secure adequate publicity for the notice, and by publishing the notice in the *Gazette*, and at an online location accessible to residents of the Town.

The notice must set out the name of the individual concerned and be given within 30 days after an individual assumes any office of chairman, vice-chairman, elected member or appointed member, or after an individual is appointed as a key officer of the Town Council.

The Town Council is also required in that time to give to the Minister a notice specifying the name of the individual and other particulars to be prescribed in rules made under section 57.

The new section 17A also requires a Town Council to notify the Minister, within 30 days after an individual ceases to be a chairman or vice-chairman, or an elected member or appointed member of a Town Council, or a key officer of a Town Council. However, there is no need to notify the change in Town Council members who cease holding that office because of the assumption of office of a chairman following a general election, or because the MP vacates his or her seat in Parliament. There is no corresponding requirement to publicise the cessation of office as is the case for appointments.

Clause 11 amends section 18(1) as a consequence of the amendments in clause 14, which place limits on the functions of Town Councils. The other amendment is to confine the function of every Town Council to exercising powers and performing duties conferred or imposed on the Town Council by or under the Act and not any other written law.

Clause 12 first amends section 19 as a consequence of the amendments in clause 14, which place limits on the functions of Town Councils. As in clause 11, the powers of a Town Council are also confined to what is provided under the Act and not any other written law.

The second amendment is to align the text in section 19(1) that describes the powers of a Town Council with the items for which a Town Council management fund may be used under section 33(7). There is now express mention of demolishing and relocating facilities on premises that are not common property in a Town.

The third amendment is to clarify the limits to which a Town Council may charge persons for the use of public housing estate common property within its Town or of services, facilities and improvements made by a Town Council. As amended, charges may be set and collected by a Town Council only for use that is prescribed by rules made by the Minister under section 57.

Those rules (see clause 31) can fix different types of uses of any part of the common property within a Town, or for otherwise enjoying the benefit of any improvements by, or services and facilities provided by, a Town Council, including for different users or different types of common property, improvements, services or facilities within a Town, or in different parts of a Town.

As amended, a Town Council is also not entitled to demand or take from the HDB (or HDB's contractors and agents) a charge for use of public housing estate common property within its Town. A Town Council that demands or takes a charge in contravention of the restrictions commits an offence. The punishment is a fine not exceeding \$5,000. In addition, the courts have power to order the convicted Town Council to refund to the person from whom the charge is unlawfully taken.

Finally, a new section 19(4) is introduced to ensure that Town Councils do not lose focus on their core functions. It provides that a Town Council for a Town has no power to carry on substantial trading or financial activities other than activities relating to the control, management, maintenance and improvement of the common property of the residential and commercial property in the HDB housing estates within the Town, activities to keeping that common property in a state of good and serviceable repair and in a proper and clean condition, and activities that the Act expressly allows, such as lift upgrading, and investment of Town Council money. A Town Council must get the prior approval of the Minister before carrying on activities beyond its core functions in the Act.

Clause 13 amends section 20 to prescribe the disqualifications to be a secretary to a Town Council or certain key officers of a Town Council.

Under the new section 20(1A), an individual is disqualified from being appointed as secretary to a Town Council, and must stop being one if the individual is appointed as auditor of or as the managing agent of the Town Council, or is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent of the Town Council.

The new section 20(1B) introduces a new formality when an individual is appointed as secretary to a Town Council. He or she must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form prescribed in the rules made under section 57, and deliver the declaration to the Minister.

Section 20 is further amended to disqualify an auditor or a managing agent from being appointed or serving in the position of general manager or finance manager (by whatever name called) of the Town Council, or a deputy of the general manager or finance manager of a Town Council.

Likewise, section 20 is amended to provide that an individual who is appointed to these key offices must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form to be prescribed in rules made under section 57, and deliver the declaration to the Minister.

Clause 14 introduces new sections 21A and 21B covering the relationship between Town Councils and various statutory authorities.

The new section 21A makes it a duty of every Town Council, in the performance of its functions and duties and the exercise of its powers under the Act, to work cooperatively and in collaboration with the HDB in the performance of the HDB's functions under the Housing and Development Act (Cap. 129), and with any public officer or statutory authority, in the performance of certain functions under any written law, for the benefit of the public housing estate residents of its Town.

This new duty does not extend to all statutory authorities or public officers or to all types of public functions. These are statutory authorities or public officers without specific power under written law to discharge important functions.

The functions are for securing public safety and ensuring public order in or around the Town, or for preventing disease or injury or creating and maintaining a healthy environment in or around the Town, or in urban development that integrates electronic, information and communication technologies so as to improve quality of life for residents in and around the Town.

For example, the National Environment Agency may want to set up surveillance cameras to help in the detection of high-rise littering, but a Town Council may, despite having been given an opportunity to give its views about the matter, refuse to consent to the work done on the common property within its Town for installing the surveillance cameras.

Where reasonable notice has been given to a Town Council by the HDB or a public officer or statutory authority, in the performance of those functions under any written law, and the Town Council is uncooperative i.e. it unreasonably delays, hampers or prevents the performance of that function on or in relation to that common property, the new section 21A empowers the HDB or the statutory authority or public officer (as the case may be) with the consent of the HDB to give notice to the Town Council concerned requiring the Town Council (according to the circumstances of the case) to do, or to refrain from doing, such things as are specified in the notice as to facilitate or enable the HDB, or the statutory authority or public officer (as the case may be), to so discharge those functions.

Non-compliance with the notice, without reasonable excuse is an offence. The penalty is a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction. The HDB or the statutory authority or public officer (as the case may be), may also carry out, or cause to be carried out all or any of the things as are specified in the notice, and discharge its or his or her function on or in relation to the common property of the residential and commercial property in the housing estates of the HDB within the Town. The HDB or the statutory authority or public officer (as the case may be) may also recover all expenses reasonably incurred by the HDB, statutory authority or public officer carrying out those things.

The amendment is to ensure that a Town Council does not exercise its powers or perform its function or duty under the Act in a way that prevents the lawful exercise by any public officer or statutory authority, of functions under any other written law for which there are no specific coercive powers to do so.

The new section 21A does not derogate from provisions in other written laws that already make it an offence to wilfully obstruct or impede any public officer or statutory authority, or officer of a statutory authority, acting in the exercise of his, her or its powers or the performance of his, her or its functions. The new section 21A also does not cover emergency-related purposes, which is the subject of the new section 21B.

Finally, as a Town Council is conferred by section 19(2) and (3) (see clause 12) a power to manage and maintain certain properties of the HDB and the Government, and to carry out work on behalf of the HDB or other statutory authorities on terms and conditions to be agreed between the Town Council concerned and the HDB, Government or statutory authority, as the case may be, it is made clear in section 21A that the section does not prevent a Town Council proposing reasonable terms and conditions for doing the work.

The new section 21B sets out arrangements under which a Town Council may be required to prepare itself to deal with or make available its services for use for purposes related to the management of a public health emergency, a civil defence emergency or other emergency, natural or man-made (called emergency-related purposes).

The new section 21B confers power on the Minister to give written directions to a Town Council requiring the Town Council to prepare itself to deal with specified kinds of emergency-related purposes, or requiring that access be given, or priority of access be given, to specified kinds of services by the Town Council for specified kinds of emergency-related purposes. The requirement can be in such manner and on such terms and conditions as the Minister specifies.

The new section 21B(5) requires the Town Council to comply with the written directions. A Town Council that fails to comply with any directions of the Minister will be guilty of an offence. The punishment is a fine not exceeding \$5,000.

Clause 15 amends section 24 to emphasise that a Town Council is to have by-laws for the benefit of the residents of the housing estates within its Town and generally for exercising its powers and carrying out its duties and functions under the Act, and not other written law.

The amendments provide that model by-laws prescribed by rules made by the Minister under section 57 for the purpose of controlling and managing the use or enjoyment of the common property of the residential and commercial property in the HDB housing estates within the Town for the benefit of the residents of those estates, become the by-laws for every Town Council.

A Town Council is not prevented from making by-laws for that purpose, in addition to those in the model by-laws prescribed by rules made under section 57, and from amending from time to time those by-laws. However, any such by-law so made or amended cannot be inconsistent with the model by-laws.

The present power of Town Councils to make and amend by-laws for or in respect of rates or amounts of conservancy and service charges, the administrative fee to be paid by any person in respect of any services provided by the Town Council or any debt due to the Town Council, and the penalty for late payment of any conservancy and service charges or licence fee due to the Town Council, are retained and re-enacted.

Clause 15 also makes it clear that the right to sue for a breach of a by-law is confined to a breach of a by-law that is for the purpose of controlling and managing the use or enjoyment of the common property of the residential and commercial property in the HDB housing estates within the Town, and not by-laws prescribing rates or amounts of conservancy and service charges, administrative fees or penalties for late payment.

Clause 16 repeals and re-enacts section 31 regarding committees of a Town Council.

The new section 31 retains for every Town Council the power to form committees for purposes which, in the opinion of the Town Council, would be better regulated and managed by means of such committees. This is to be done by resolution, which can contain limits as to how such a committee is to function.

The new section 31 also provides that a committee appointed by a Town Council may consist of such number of individuals as the Town Council thinks fit, and may include individuals who are not members. However, the present requirement that at least one-third of the members of each committee formed must be members of the Town Council, is retained.

There is a new requirement where a committee is formed for the following subject matters viz. internal audit, finance, procurement of goods or services, publicity and public relations, or estate management. While the amendment does not make it mandatory for committees to be formed for these subject matters, if any committee is formed for any of these subject matters, the chairperson of each such committee must be a member of the Town Council.

The new section 31 also prescribes the disqualifications to be a member of a committee of a Town Council. An individual is disqualified from being appointed as such a committee member and must stop being one, if the individual is appointed as the auditor or managing agent of the Town Council. An individual is also disqualified from being a member of a committee of a Town Council if he or she is in a position to exercise a significant influence over or with respect to the management or operation of the business of the managing agent of the Town Council.

Finally, there is a new requirement that every individual who is appointed as a committee member must, as soon as practicable after assuming the appointment, complete a declaration of acceptance of that appointment in the form prescribed in rules made under section 57, and deliver the declaration to the Minister.

Clause 17 amends section 32 to prevent a Town Council from delegating to any committee it forms the Town Council's power to make by-laws and the power to delegate itself. The latter will prevent the committee from sub-delegating the Town Council's powers to others.

The other amendment to section 32 is to allow the Town Council to delegate powers that the Town Council is conferred with under the Act, and no other written law. The extent of any delegation of powers under any other written law would be governed by that other written law.

Clause 18 amends section 33 to require every Town Council to set up a sinking fund called a lift replacement fund to cover the costs of lift replacements and lift upgrading works, such as and not limited to replacement of lift parts like replacement of display panels, batteries, and inverters. The amendment will also enable the transfer of surpluses each year in the Town Council Fund to the lift replacement fund or other sinking funds.

Section 33(9) is further amended to provide that if at the end of a financial year of a Town Council there is a surplus in a fund that is established under subsection (1) and is neither a sinking fund nor a lift replacement fund (called an operating fund), the Town Council is allowed to transfer the whole or part of the operating fund surplus to a sinking fund or lift replacement fund. The sinking fund or lift replacement fund to which the surplus is transferred need not be in deficit.

Also, if at the end of a financial year there is a surplus in a sinking fund established under subsection (4), the Town Council may transfer the whole or part of the surplus to the lift replacement fund established under the new subsection (4A), to make good any deficit in the lift replacement fund.

Clause 18 also amends the Minister's power to set, by Financial Rules made under section 43, the minimum amounts of conservancy and service charges or grants that must be paid into a Town Council's sinking funds. The amount set is a minimum sum, so a Town Council is not prevented from transferring more of its surplus conservancy and service charges or grants into its sinking funds or lift replacement funds.

Section 33 is further amended to allow a Town Council, with the Minister's approval or where directed by the Minister, to disburse moneys from the Town Council Fund (but not a sinking fund) to do certain works on facilities within the Town but outside of the common property. The Town Council must still have the consent of the facility-owner before proceeding with the work.

Finally, the offence in section 33(6B) is deleted because of the new section 48A inserted by clause 25.

Clause 19 amends section 34(9) as a consequence of the amendments to section 33 establishing a new sinking fund called the lift replacement fund.

Clause 20 repeals and re-enacts section 35.

The new section 35 is a re-statement of the basic duty of Town Councils to keep proper accounts and manage its moneys properly but does so in a more detailed manner.

In particular, a Town Council must ensure that all money payable to the Town Council is properly collected, that appropriate arrangements are implemented for the security of all money received by the Town Council, that all money expended and liabilities incurred by the Town Council are properly authorised and that adequate control is maintained over assets owned by or in the custody or control of the Town Council. The detailed requirements for accounts will be set out in Financial Rules to be made by the Minister under section 43.

A Town Council must also ensure that its accounts and records are kept up-to-date and ready for inspection at any time by its auditor, an inspector or any other person authorised to inspect those accounts and records.

Clause 21 amends section 38, which relates to auditors of Town Councils. First, section 38(1) is amended to provide that the accounts of a Town Council is to be audited by an auditor appointed by the Town Council with the Minister's approval. The Minister is to give approval only after consulting with the Auditor-General. If no such auditor is appointed, the accounts of the Town Council must be audited by the Auditor-General.

Next, section 38 is amended to fix a time by which the audited accounts and financial statements of a Town Council, signed by the chairman of and the secretary to the Town Council, and the auditor's report, must be given by the Town Council to the Minister.

The new section 38(11) stipulates a period of 6 months after the close of the financial year to which the accounts and financial statements relate. The Minister is, however, given discretion to extend the period on a case-by-case basis.

It is an offence if a Town Council, without reasonable excuse, is persistently in default in relation to the requirement imposed by section 38(11) to give the Minister audited accounts and financial statements. The punishment is a fine not exceeding \$5,000.

As is the case for other statutory boards, the Minister must, as soon as practicable after receiving a Town Council's audited accounts and financial statements and the auditor's report, present them to Parliament. This is unchanged from the law today. However, the sequence is modified. The audited accounts and financial statements



of a Town Council, and the auditor's report, are to be presented to Parliament first before the Town Council is required to display them for public inspection within the Town. Under the new section 38(13A), the Town Council must do this within 30 days after presentation to Parliament.

Also imposed is a new requirement for the audited accounts and financial statements of a Town Council, and the auditor's report, to be published by the Town Council, within those 30 days, at an online location accessible to residents of the housing estates in the Town. Non-compliance is, however, not an offence.

Clause 22 makes an amendment to section 40(a) that is a consequence of the amendment to section 33 in clause 18 introducing the lift replacement fund.

Clause 23 amends section 43 regarding the Minister's power to make Financial Rules for the purposes of Part VI.

HDB residents expect Town Councils to manage their public infrastructure and assets for the long-term benefit and viability of the residents they represent and in the short term, deliver essential services and account for all money collected from residents or from the Government by way of grants out of the public purse. Thus, section 43 is amended so that the Financial Rules may require every Town Council to prepare, keep up-to-date and publish a long-term financial plan that must relate to a period to be prescribed by the Rules and containing information (the details of which are to be set out in the Financial Rules) about the Town Council's proposals for the repair, maintenance, management and improvement of common property within the Town for each financial year of that period. This may include projections of income and expenditure for each financial year of the period.

The amendment also confers power on the Minister to introduce, through the Financial Rules, requirements for a Town Council which is or is likely to become insolvent, or which is or is likely to become unable to pay its debts (within the meaning in those Rules), to take certain action. The first is to report to the Minister of that fact of insolvency or impending insolvency, etc.. The Town Council has also to do or not to do any act or thing prescribed in the Financial Rules, which may include appointing one or more advisers to advise the Town Council on the proper management of its business and preparing a debt repayment plan.

The Minister is further conferred power to create offences under the Financial Rules. The maximum penalty that may be prescribed in these Rules is changed to a fine not exceeding \$5,000. This is aligned with the existing maximum penalty that may be prescribed for an offence under rules that the Minister is empowered to make under section 57.

Finally, section 43 is amended so that Financial Rules may dictate the form in which accounts are prepared by Town Councils. For example, the Financial Rules may require Town Councils to prepare accounts according to constituencies.

Clause 24 introduces a new Part VIA (comprising new sections 43A to 43H) that outlines the oversight powers over Town Councils and the monitoring process in a continuum of graduated responses.

The new section 43A empowers the Minister to develop a plan or strategy for reviewing Town Councils in relation to compliance with the Act. The reviews are to be designed to ensure the Town Councils conduct their business lawfully. A compliance review is to be carried out by an inspector, or 2 or more inspectors, assigned to the review by the Minister. The results of the review may go further than just containing findings and may contain recommendations for administrative or regulatory change. This tool is used for regular checks on Town Councils.

The new section 43B provides that the Minister may direct an investigation under this Part into the affairs of a Town Council if there are reasonable grounds to suspect a material irregularity in or affecting the conduct of a Town Council's affairs. The Minister may also direct an investigation if any document or information the production of which has been required of a person under a compliance review under section 43A has not been produced in compliance with that requirement, and the inspector concerned has reasonable grounds to believe that the person will not produce the document or information in compliance with that requirement.

The investigation that may be started under the new section 43B is distinct from a compliance review. This has to be a suspected material irregularity, not a trivial matter, whether detected from the compliance or from any other manner.

An investigation under the new section 43B is to be carried out by an inspector, or 2 or more inspectors, assigned to the investigation by the Minister. The inspector or inspectors assigned to carry out an investigation of a Town Council must report to the Minister and the Town Council on the results of the investigation.

The new section 43C sets out the powers of inspectors of Town Councils in an investigation. This includes power to enter premises, to require persons to provide written answers to questions or other written information, and to require the Town Council concerned to produce such books relating to the affairs of the Town Council as may be required for the investigation.

The new section 43D empowers the Minister to issue a rectification order against a Town Council where, from the report of a compliance review under the new section 43A or an investigation under the new section 43B or otherwise, the Minister is of the opinion that deficiencies have been identified in the conduct of the Town Council's affairs and that action must be taken to address them, or an irregularity has occurred, or is occurring, in the administration of the Town Council's financial affairs.

A rectification order will require the Town Council concerned to take specified remedial action within a specified period and to report to the Minister, at the end of the specified period (called the compliance date), on the action taken to give effect

to the requirement. A rectification order may alternatively require the Town Council concerned to take specified action to correct the irregularity or to guard against the recurrence of irregularities (or both) by the compliance date.

If a Town Council fails to comply with a rectification order by the compliance date, the Town Council will be guilty of an offence. The punishment is a fine not exceeding \$5,000. In the case of a continuing offence, there is a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction.

The new section 43E provides for the appointment of inspectors of Town Councils from among civil servants, employees of the HDB or other suitably qualified individuals. An inspector of Town Councils may be accompanied by one or more police officers, auxiliary police officers and public accountants to assist the inspector in the discharge of the inspector's functions.

The new section 43F makes it an offence for a person who, without reasonable excuse, fails to do anything required of the person by an inspector's notice under the new section 43A(6) or 43C(3). The punishment is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months or both. In the case of a continuing offence, there is a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction.

The new section 43F also makes it an offence for a person who intentionally alters, suppresses or destroys any document or information which the person has been required by an inspector's notice under the new section 43A(6) or 43C(3) to furnish, or, in furnishing any document or information so required, to make any statement which the person knows to be false in a material particular or recklessly makes such a statement. The punishment is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months or both.

There is no privilege against self-incrimination. A person is not excused from answering a question or producing evidential material in response to a notice or requirement made by an inspector on the ground that the answer, or the production of the material, might tend to incriminate the person.

The new section 43G empowers the Minister to place a Town Council under official management on one of 2 grounds, and where the Minister is of the opinion that it is inappropriate for the Town Council to continue without official management.

The 2 grounds are where a Town Council has failed to keep or maintain any part of the common property of any residential or commercial property in the HDB housing estates within the Town of the Town Council in a state of good and serviceable repair and in a proper and clean condition, or where any duty of a Town Council must be carried out urgently in order to remove any danger to the health or safety of residents of the HDB housing estates within the Town of the Town

Council, and that the Town Council refuses or is unable to carry out that duty. These 2 grounds exist today already in section 50.

The Minister has to give advance notice of his intention to place a Town Council under official management.

When the Minister places a Town Council under official management, all members of the Town Council are suspended from office unless the Minister indicates otherwise. The Minister must then appoint a suitable person to manage the affairs, business and property of the Town Council, called the official manager.

An official manager ceases to manage the affairs, business and property of the Town Council when the Minister is satisfied that the reasons for the official manager's appointment have ceased to exist or the appointment is earlier revoked.

The new section 43H sets out the powers of an official manager appointed under the new section 43G for a Town Council. An official manager has full power to transact any business of the Town Council and to do anything else the Town Council could have done but for the suspension of its members. The official manager appointed for a Town Council may act in the official manager's own name, or in the name of the Town Council, and despite section 6, may execute a document under the common seal of the Town Council.

Clause 25 introduces a new section 48A that imposes on the chairman of or secretary to a Town Council, or any person who was purporting to act in any such capacity, criminal liability for certain offences committed by the Town Council in certain circumstances. The new section 48A is an expansion of the present section 33(6B).

First, the new section 48A deals with an offence under the new section 21A(4) (a directive from a statutory authority requiring Town Council collaboration) or the new section 43D(4) (a rectification order). Where a Town Council commits an offence under the new section 21A(4) or 43D(4), an individual who is the chairman of or secretary to a Town Council, or who was purporting to act in any such capacity, is guilty of that same offence as is the Town Council, and is liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction, if it is proved that the individual —

- (a) consented or connived to effect the commission of the offence;
- (b) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the Town Council; or
- (c) knew or ought reasonably to have known that the offence by the Town Council (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence.

Likewise for an offence under section 19(6), 21B(6), 33(6A) or 38(13B), under the Financial Rules made under section 43, or under any rules made under section 57 about the governance of Town Councils. An individual who is the chairman of or secretary to a Town Council, or who was purporting to act in any such capacity, who is similarly proved as above with respect to any one of those offences, is liable on conviction to a fine not exceeding \$5,000, which is the same as for the Town Council if also convicted.

Clause 26 amends section 49 first, by confining a Town Council's power to offer composition only with respect to offences under its own by-laws relating to common property that the Town Council prescribes to be compoundable. The second amendment raises the maximum composition sum that may be offered by a Town Council for each such offence from \$1,000 to \$2,000.

Secondly, clause 26 amends section 49 to empower a duly authorised public officer to offer composition to a Town Council or other person with respect to offences under the Act or rules made by the Minister that the Minister prescribes to be compoundable offences. The maximum sum that may be collected by a public officer as composition is one half of the amount of the maximum fine that is prescribed for the offence, or \$2,000, whichever is the lower. This is the same as that prescribed under the Criminal Procedure Code (Cap. 68).

Clause 27 repeals section 50 because of the amendments to section 3 in clause 3.

Clause 28 introduces a new section 54A, the purpose of which is to facilitate smoother handover of the control and management of common property in new HDB housing estates, and of parts of HDB housing estates excluded from the definition of common property, to the control and management of a Town Council.

Clause 29 amends section 55 primarily as a consequence of amendments in clause 3, which resites the provisions in section 55 on dissolution of Town Councils within section 3.

Section 55 is also amended to clarify the interface between a Town Council charged by the Act to maintain common property in a public housing estate and the HDB. The HDB is, and despite there being a Town Council for any housing estate developed by the HDB, remains as the owner of the common property in the public housing estate. A Town Council is charged by the Act to maintain that common property. The new section 55(1) provides that a Town Council must perform its function, power or duty under the Act in a way not inconsistent with the title and rights of the HDB as owner of the common property within the Town for which the Town Council is established.

Clause 30 introduces new sections 56A and 56B regarding the service of documents and notices.

The new section 56A requires every Town Council to ensure that there is lodged with the Minister, an address for the service of notices or documents on it, a fax

number for the service of notices or documents by fax on the Town Council, and an email address for the service of notices or documents by email. The new section 56A also requires a Town Council, should it decide to change the address for the service of notices or documents on it, to notify the Minister within 7 days after deciding and to cause to be published (at the Town Council's cost), before the change takes effect, a notice about the new address or number for service of notices or documents on the Town Council, in a manner as will secure adequate publicity for the change.

The new section 56B provides for the manner under which notices or documents for the purposes of the Act are to be served on Town Councils and other persons, except those documents required for legal proceedings, written demands under section 39(6) for overdue conservancy and service charges and notices of sale of flats under sections 24F(6) and 44(4). The latter exceptions are necessary because specific requirements may be or have been prescribed for the service of these other documents.

Clause 31 expands the rule-making power vested by section 57 in the Minister to deal with governance of Town Councils, including the preparation and submission of documents or information in compliance with such governance requirements, and the disclosure of the level of such compliance by Town Councils to the Minister.

The amendments also empower the Minister to make rules requiring every Town Council to adopt a caretaker policy, the contents of which may be set out in the Rules. A caretaker policy is to govern the conduct of the Town Council and its staff during the statutory caretaker period for the Town Council. The statutory caretaker period for a Town Council starts on the issue of a writ of election for every constituency comprised in the Town for which the Town Council is established (such as in a general election) and ends on the date that the elected members of a Town Council for that Town assume office for that Town Council after that election.

Clause 32 repeals the existing Schedule, which contains the forms of declarations of acceptance of office required to be made by the chairmen and vice-chairmen of Town Councils after assuming office. By amendments in clauses 7, 8, 13 and 16, these forms may be prescribed in rules made under section 57 or set out in electronic form on a website that is specified in those rules. This will facilitate changes to forms, which tend to be frequent or minor, and free up parliamentary time for Bills.

Clause 33 is a saving and transitional provision. In particular, it provides that the raised maximum amount of composition sum introduced by clause 26 does not apply to offences alleged to have been committed before the operative date of that clause.

The Minister is further given power to make regulations of a saving and transitional nature, within the 2 years after the relevant amendment comes into force.

## EXPENDITURE OF PUBLIC MONEY

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

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