

COVID-19 (Temporary Measures) (Amendment) Bill

Bill No. 2/2021 [Urgent Bill].

Read the first time on 1 February 2021.

A BILL

intituled

An Act to amend the COVID-19 (Temporary Measures) Act 2020.

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

Short title

1. This Act is the COVID-19 (Temporary Measures) (Amendment) Act 2021.

PART 1

5 AMENDMENTS RELATING TO EXTENSION OF PART 7

Amendment of section 1

2. Section 1 of the COVID-19 (Temporary Measures) Act 2020 (called in this Act the principal Act) is amended by deleting subsections (7) and (8) and substituting the following subsection:

10 “(7) Part 7 remains in force until the end of 8 April 2022.”.

Amendment of section 34

3. Section 34(3) of the principal Act is amended by deleting the words “subsection (7)” and substituting the words “this Part”.

PART 2

15 AMENDMENTS RELATING TO FUNCTIONS AND
DUTIES OF SINGAPORE LAND AUTHORITY

New section 19LA

4. The principal Act is amended by inserting, immediately after section 19L, the following section:

20 “**Administrative support services, etc.**

19LA.—(1) The Singapore Land Authority, established by section 3 of the Singapore Land Authority Act (Cap. 301), has the functions and duties of —

- 25 (a) assisting the Minister in, or otherwise facilitating, the Minister’s appointment of the Registrar of rental relief assessors, Deputy Registrars of rental relief assessors and the panel of rental relief assessors; and
- (b) establishing the registry through which the Registrar of rental relief assessors, Deputy Registrars of rental

relief assessors and rental relief assessors may carry out their functions and duties under this Division, and providing administrative support services to enable those persons to carry out, or otherwise to facilitate their carrying out, those functions and duties.

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(2) The Singapore Land Authority, in carrying out the functions and duties under subsection (1), is taken to be carrying out a function or duty under the Singapore Land Authority Act.”.

Validation

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5. Any act done (including the entering into of any contract) by the Singapore Land Authority at any time before the date of publication of this Act for the purpose of —

(a) assisting the Minister for Law in, or otherwise facilitating, the Minister for Law’s appointment of the Registrar of rental relief assessors, a Deputy Registrar of rental relief assessors or the panel of rental relief assessors under section 19K or 19L of the principal Act; or

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(b) establishing the registry through which the Registrar of rental relief assessors, Deputy Registrars of rental relief assessors and rental relief assessors may carry out their functions and duties under Division 4 of Part 2A of the principal Act, and providing administrative support services to enable those persons to carry out, or otherwise to facilitate their carrying out, those functions and duties,

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is taken to have been validly done as if section 19LA of the principal Act were in force at the time the act was done and, on or after 1 February 2021, no legal or other proceedings may be instituted or any question raised in any such proceedings on account of or in respect of such validity.

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PART 3
AMENDMENTS RELATING TO
PERSONAL CONTACT TRACING DATA

Amendment of section 2

- 5 **6.** Section 2 of the principal Act is amended —
- (a) by deleting the words “, (c) and (d)” in paragraph (a) of the definition of “Minister” and substituting the words “to (e)”;
 - 10 (b) by deleting the word “and” at the end of paragraph (c) of the definition of “Minister”; and
 - (c) by inserting the word “and” at the end of paragraph (d) of the definition of “Minister”, and by inserting immediately thereafter the following paragraph:
 - 15 “(e) for the purposes of Part 11 — the Minister charged with the responsibility for digital Government and public sector data governance;”.

New Part 11

- 20 **7.** The principal Act is amended by inserting, immediately after section 79, the following Part:

“PART 11
PERSONAL CONTACT TRACING DATA

Interpretation of this Part

- 25 **80.** In this Part, unless the context otherwise requires —
- “anonymised data” includes aggregated data and de-identified data;
 - “contact tracing” means the process of identifying, notifying or communicating with any individual who —
 - 30 (a) could be a source of COVID-19 infection; or
 - (b) having been, or suspected to have been, directly or indirectly in contact with an infected

individual or any other individual, or at a particular place, could be at risk of being infected with COVID-19;

- “contractor”, in relation to a public sector agency, means a person who is engaged to perform any function of or supply any goods or services to the agency, and includes an employee of that person; 5
- “criminal proceeding” includes any pre-trial procedure, inquiry, trial or other proceeding in court;
- “data administrator”, in relation to a digital contact tracing system, means a public sector agency designated by the Minister to administer data collected by or recorded in the digital contact tracing system; 10
- “digital contact tracing system” means an information technology system comprising one or more types of digital contact tracing tools, that is specified in the Sixth Schedule; 15
- “digital contact tracing tool” means any token, software, application, Internet website or apparatus designed to facilitate the carrying out of contact tracing, that records one or more of the following: 20
- (a) the entry or exit of an individual to or from any place;
 - (b) proximity information;
 - (c) the date, time and duration of the entry, exit or proximity; 25
- “officer of a public sector agency” means a public officer holding a post in a public sector agency or an employee of a public sector agency, and includes an individual under a secondment arrangement making available temporarily to a public sector agency the service of the individual; 30
- “personal contact tracing data” means entry or exit records, proximity information or other data —

(a) collected using any digital contact tracing tool or combination of digital contact tracing tools, that is part of a digital contact tracing system; and

5 (b) which, by itself or with other information, identifies any individual;

Explanation

10 Anonymised data, such as aggregated data about the individuals who entered a place on a certain date or de-identified data, is not personal contact tracing data.

“personal device” means —

(a) a mobile phone or other similar device on which a digital contact tracing tool is installed or which is used to access a digital contact tracing tool; or

15 (b) a token containing a wireless transmitter, designed or capable of being used as a digital contact tracing tool;

20 “proximity information” means information about the proximity of an individual’s personal device to another personal device or to any apparatus on which a digital contact tracing tool is installed;

“public sector agency” means any of the following:

(a) a Ministry or department of the Government;

25 (b) a body corporate established by a public Act for the purposes of a public function;

(c) an Organ of State, excluding a court;

30 “serious offence” means an offence within any of the categories specified in the Seventh Schedule, and includes an abetment of or attempt, conspiracy or common intention to commit such an offence.

Application of this Part

81. This Part applies to personal contact tracing data that is collected before, on or after the date of commencement of this Part as part of the national contact tracing efforts to prevent or control the spread of COVID-19.

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Preservation of secrecy of personal contact tracing data

82.—(1) Subject to this section, the personal contact tracing data recorded in any digital contact tracing system is to be used by a public sector agency only to carry out or facilitate contact tracing (including to administer or maintain the digital contact tracing tools and digital contact tracing system).

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(2) No police officer or other officer of any law enforcement agency, in the exercise of any power under the Criminal Procedure Code (Cap. 68) or other written law, may order the disclosure or production of, or search, access or seize, any personal contact tracing data for any investigation or criminal proceeding, except an investigation or criminal proceeding in respect of a serious offence.

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(3) No officer of a public sector agency, in the performance of his or her duties or functions under any written law, may require the disclosure or production of any personal contact tracing data, except for the purpose permitted by subsection (1).

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(4) A person is not obliged to comply with any order or direction to provide any personal contact tracing data made in contravention of subsection (2) or (3).

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(5) Any officer of a public sector agency, contractor engaged by a public sector agency, police officer or other officer of any law enforcement agency who —

(a) has access to personal contact tracing data in the course of the officer's or contractor's employment or engagement; and

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(b) uses or discloses any of the personal contact tracing data for any purpose other than —

(i) the purpose permitted by subsection (1);

(ii) an investigation or criminal proceeding in respect of a serious offence; or

(iii) an investigation or criminal proceeding in respect of an offence under this subsection,

5 commits an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

10 (6) Subsections (1) to (5) apply despite any other written law requiring or allowing disclosure of the personal contact tracing data.

15 (7) Subsection (5) does not prevent the disclosure to an individual of personal contact tracing data to which the individual has any right of access, whether by any rule of law or otherwise, and nothing in this section affects an individual's ability to use any personal contact tracing data in his or her possession.

20 (8) Upon the determination by the Minister of a date after which a digital contact tracing system is no longer required to prevent or control the spread of COVID-19, the data administrator of the digital contact tracing system must —

(a) stop the collection of any personal contact tracing data by the digital contact tracing system after that date; and

25 (b) despite section 14D of the National Library Board Act (Cap. 197), as soon as is reasonably practicable after that date, delete or cause to be deleted all personal contact tracing data in the possession or under the control of the data administrator from the digital contact tracing system, and any other record of
30 personal contact tracing data from the digital contact tracing system used by a public sector agency for the purpose of contact tracing.

35 (9) To avoid doubt, the processing of personal contact tracing data to produce anonymised data is not use of the personal contact tracing data for the purposes of subsections (1) and (5).

Appointment of authorised persons

83.—(1) The Minister may appoint one or more officers of a public sector agency as authorised persons for the administration and enforcement of this Part, either generally or for any particular provision of this Part. 5

(2) An authorised person appointed for the purpose mentioned in subsection (1) has all the powers of a police officer not below the rank of inspector under the Criminal Procedure Code in relation to an investigation into a non-arrestable offence, and for this purpose a reference to a police officer in section 16(2) and (3) of the Criminal Procedure Code (and in the provisions of that Code applied by that provision) is to be read as a reference to an authorised person. 10

(3) No liability shall lie against an authorised person with respect to anything done or omitted to be done in good faith and with reasonable care in the discharge or purported discharge of the authorised person’s functions and duties under this Part. 15

Amendment of Sixth Schedule

84.—(1) The Minister may, by order in the *Gazette*, add to the Sixth Schedule. 20

(2) The Minister may, in any order made under subsection (1), make such saving or transitional provisions as may be necessary or expedient.

(3) Any order made under subsection (1) must be presented to Parliament as soon as possible after publication in the *Gazette*.”. 25

New Sixth and Seventh Schedules

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

“SIXTH SCHEDULE

Sections 80 and 84(1)

DIGITAL CONTACT TRACING SYSTEMS

1. The digital contact tracing system known as SafeEntry.
- 5 2. The digital contact tracing system known as TraceTogether.
3. The digital contact tracing system known as BluePass, insofar as it is interoperable with TraceTogether.

SEVENTH SCHEDULE

Section 80

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SERIOUS OFFENCES

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1. Unlawful use or possession of corrosive and explosive substances, firearms or dangerous weapons.
 2. Any offence relating to committing, aiding, conspiring, abetting or financing of acts of terrorism under the Terrorism (Suppression of Bombings) Act (Cap. 324A), the Terrorism (Suppression of Financing) Act (Cap. 325) and the Terrorism (Suppression of Misuse of Radioactive Material) Act 2017 (Act 27 of 2017).
 3. Any offence relating to causing death or concealment of death, or maliciously or wilfully causing grievous bodily harm where the victim’s injury is of a life-threatening nature.
 4. A drug offence that is punishable with death.
 5. Any offence relating to escape from custody where there is reasonable belief that the subject will cause imminent harm to others.
 6. Kidnapping, abduction or hostage-taking.
 7. Any offence involving serious sexual assault such as rape or sexual assault by penetration.”.
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EXPLANATORY STATEMENT

This Bill seeks to amend the COVID-19 (Temporary Measures) Act 2020 (Act 14 of 2020) for the following main purposes:

- (a) to extend the validity of Part 7 to 8 April 2022;
- (b) to confer on the Singapore Land Authority various functions and duties so that it may support the performance of the functions and duties of various persons under Division 4 of Part 2A;
- (c) to limit the Government's use of personal contact tracing data recorded in digital contact tracing systems to the purposes of contact tracing and investigations and criminal proceedings in respect of serious offences.

Clause 1 relates to the short title.

PART 1

AMENDMENTS RELATING TO EXTENSION OF PART 7

Clause 2 amends section 1 to extend the validity of Part 7 to 8 April 2022.

Clause 3 makes a consequential amendment to section 34(3) arising from the extension of the validity of Part 7 (by clause 2).

PART 2

AMENDMENTS RELATING TO FUNCTIONS AND DUTIES OF SINGAPORE LAND AUTHORITY

Clause 4 inserts a new section 19LA to confer on the Singapore Land Authority (the SLA) various functions and duties by which the SLA may provide the Minister for Law, Registrar of rental relief assessors, Deputy Registrars of rental relief assessors and rental relief assessors with administrative support and other services in connection with the functions and duties of those persons under Division 4 of Part 2A.

Clause 5 validates any act done by the SLA before the date of publication of the COVID-19 (Temporary Measures) (Amendment) Act 2021 as if the SLA had the functions and duties described in the new section 19LA (inserted by clause 4) to do that act on the date the act was done, and prevents such validity from being questioned in legal or other proceedings.

PART 3

AMENDMENTS RELATING TO
PERSONAL CONTACT TRACING DATA

Clause 6 amends section 2 to provide that the Minister in charge of the new Part 11 is the Minister charged with the responsibility for digital Government and public sector data governance.

Clause 7 inserts a new Part 11 (consisting of new sections 80 to 84) which sets out the statutory framework for the preservation of secrecy of personal contact tracing data by public sector agencies and personnel.

The new section 80 is a general interpretation provision for the new Part 11. Among other terms, the key concepts of “contact tracing”, “digital contact tracing tool”, “personal contact tracing data” and “serious offence” are defined in the new section 80.

The term “contact tracing” means the process of identifying, notifying or communicating with one or more individuals who could be a source of COVID-19 infection or could be at risk of being infected with COVID-19.

This includes identifying and obtaining the contact details of an individual who may, for example, have —

- (a) been infected with COVID-19 with no symptoms and transmitted the infection unknowingly;
- (b) been in contact with someone who was infected or exposed to the risk of infection with COVID-19;
- (c) travelled to a country where the individual would have been at risk of being infected with COVID-19; or
- (d) been at a particular place identified as a COVID-19 hotspot.

The term “digital contact tracing tool” is defined to include both physical devices and digital tools designed to collect data that would facilitate contact tracing, such as the TraceTogether token, the TraceTogether mobile phone application and any apparatus, software or web form used for the SafeEntry check-in and check-out system (which collects data by the scanning of identification cards, QR codes, TraceTogether tokens or personal devices installed with the TraceTogether mobile phone application).

The term “personal contact tracing data” means any entry, exit, proximity or other data collected using any digital contact tracing tool or combination of digital contact tracing tools, that is part of a digital contact tracing system, and which identifies an individual. Contact tracing data collected by private entities that does not enter a digital contact tracing system, such as a manual visitor log or a company’s employee check-in system, is not covered under the Bill.

Personal contact tracing data also excludes any contact tracing data that has been aggregated (for example, by collating statistics of the number of people who were at a particular place on a certain date) or de-identified (for example, by removing identifying particulars of an individual).

The term “serious offence” is defined in the new Part 11 to mean an offence within any of the categories specified in the Seventh Schedule, for which police officers and other law enforcement officers are not prevented from obtaining personal contact tracing data in the course of investigations or criminal proceedings. The Seventh Schedule cannot be amended by subsidiary legislation.

The new section 81 sets out the application of the new Part 11 and provides that Part 11 will apply to personal contact tracing data that is collected before, on or after the date of its commencement as part of the national contact tracing efforts to prevent or control the spread of COVID-19.

The new section 82(1) prohibits a public sector agency from using personal contact tracing data recorded in any digital contact tracing system for any purpose other than for carrying out or facilitating contact tracing (including the administration and maintenance of the digital contact tracing tools and digital contact tracing system).

Facilitating of contact tracing includes any process necessary to allow contact tracing to be performed. Examples of administration and maintenance of digital contact tracing tools and digital contact tracing systems include —

- (a) using personal contact tracing data to verify whether an individual is using a digital contact tracing tool and the tool is working well, in order to confirm that the individual may be notified for contact tracing purposes, if necessary; and
- (b) using personal contact tracing data to verify the integrity of the database containing the personal contact tracing data and to rectify any errors in the digital contact tracing system.

The new section 82(2) provides that no police officer or other officer of any law enforcement agency, in the exercise of any power under the Criminal Procedure Code (Cap. 68) or other written law, may order the disclosure or production of, or search, access or seize, any personal contact tracing data for any investigation or criminal proceeding, except for the purpose of an investigation or criminal proceeding in respect of a serious offence.

For example, a police officer is prohibited from issuing a written order, under section 20(1) of the Criminal Procedure Code, to any person requiring the person to produce a record of any personal contact tracing data, unless the written order is issued in the course of an investigation or criminal proceeding in respect of a serious offence.

The new section 82(3) prohibits an officer of a public sector agency, in the performance of his or her duties or functions under any written law, from requiring the disclosure or production of any personal contact tracing data, except for the purposes of carrying out or facilitating contact tracing under the new section 82(1).

The new section 82(4) provides that a person is not obliged to comply with any order or direction, made in contravention of the new section 82(2) or (3), to provide any personal contact tracing data. This makes it clear that any person given such an order or direction does not commit an offence in refusing to provide the personal contact tracing data if the order or direction is made in contravention of the new section 82(2) or (3).

The new section 82(5) makes it an offence for any officer of a public sector agency, contractor engaged by a public sector agency, police officer or law enforcement officer who has access to personal contact tracing data in the course of employment or engagement, to use or disclose any of that data for any purpose other than —

- (a) for carrying out or facilitating contact tracing;
- (b) for an investigation or criminal proceeding in respect of a serious offence; or
- (c) when enforcing the new offence under the new section 82(5).

The punishment is a fine not exceeding \$20,000 or imprisonment for a term not exceeding 2 years or both.

The new section 82(6) provides for the new section 82(1) to (5) to apply even if there are powers or provisions in other written laws that require or permit disclosure of data.

The new section 82(7) makes clear that an officer of a public sector agency, a contractor engaged by a public sector agency, a police officer or any other officer of any law enforcement agency is not prevented from disclosing personal contact tracing data to an individual pursuant to any right that the individual may have to the data, and does not commit an offence by doing so. It also makes clear that an individual's ability to use any personal contact tracing data in his or her possession is not affected by the section.

The new section 82(8) provides that the Minister may also determine a date after which a digital contact tracing system is no longer needed to prevent or control the spread of COVID-19, and the data administrator of the digital contact tracing system must stop the collection of any personal contact tracing data by that system after that date, and must delete or cause to be deleted all personal contact tracing data that is in the possession or under the control of the data administrator from the digital contact tracing system and any records of personal contact tracing

data that may have been extracted for contact tracing and used for that purpose by a public sector agency.

The new section 82(9) makes clear that processing of personal contact tracing data to anonymise it is not considered use of the data in contravention of the new section 82(1) or (5).

The new section 83 provides for the appointment of one or more authorised persons to administer and enforce the new Part 11.

Under the new section 83(2), an authorised person is empowered to exercise all the powers of a police officer not below the rank of inspector under the Criminal Procedure Code in relation to an investigation into a non-arrestable offence.

In addition, the authorised person may, under section 16 of the Criminal Procedure Code, by order of the Public Prosecutor or a Magistrate, exercise any of the special powers of investigation under sections 21, 22, 34, 39 and 111 of the Criminal Procedure Code and may also exercise the same powers in respect of the investigation as a police officer may exercise without an order in an arrestable case, except the power to arrest without warrant.

The new section 83(3) provides personal immunity for an authorised person with respect to anything done or omitted to be done in good faith and with reasonable care in the discharge or purported discharge of the authorised person's functions and duties under the new Part 11.

The new section 84 empowers the Minister to add new digital contact tracing systems to the Sixth Schedule by an order in the *Gazette*. Any such order must be presented to Parliament as soon as possible after publication in the *Gazette*. However, the removal of any digital contact tracing system from the Sixth Schedule may only be done by Parliament. Likewise, any change to the categories of serious offences in the Seventh Schedule must be done by Parliament.

Clause 8 inserts new Sixth and Seventh Schedules.

The new Sixth Schedule specifies the digital contact tracing systems to which the new Part 11 applies. The following information technology systems are specified to be digital contact tracing systems:

- (a) SafeEntry;
- (b) TraceTogether;
- (c) the parts of the BluePass system that are interoperable with TraceTogether.

The new Seventh Schedule specifies the categories of serious offences for the purposes of the new Part 11.

EXPENDITURE OF PUBLIC MONEY

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