

Endangered Species (Import and Export) (Amendment) Bill

Bill No. 14/2022.

Read the first time on 9 May 2022.

A BILL

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An Act to amend the Endangered Species (Import and Export)
Act 2006.

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 Endangered Species (Import and Export) (Amendment) Act 2022 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 Endangered Species (Import and Export) Act 2006 (called in this Act the principal Act) is amended —

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

10 ““corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act 2005;”;

15 (b) by deleting the definition of “permit” in subsection (1) and substituting the following definition:

““permit” means a permit or certificate issued by the Director-General under section 7(3) or deemed (by section 30) to have been issued under this Act;”;

20 (c) by deleting the definitions of “readily recognisable part or derivative of a plant” and “readily recognisable part or derivative of an animal” in subsection (1) and substituting the following definitions:

““readily recognisable part or derivative” —

25 (a) for an animal, means any substantially complete animal, or any part or derivative of an animal, in natural form, stuffed, chilled, preserved, dried or otherwise treated or prepared (which may or may not be contained in preparations), and
30 includes —

(i) any meat, bone, hide, skin, leather, tusk, horn, antler, gland, feather, hair, tooth, claw, shell, scale or egg of an animal; or 5

(ii) any thing which is claimed by any person, or which appears from any accompanying document, or any packaging, label or mark, or any other circumstances, to contain any part or derivative of an animal, 10

but does not include any urine, faeces or ambergris that has been naturally excreted; and 15

(b) for a plant, means any substantially complete plant, or any part or derivative of a plant, in natural form, preserved, dried or otherwise treated or prepared (which may or may not be contained in preparations), and includes — 20

(i) any seed, stem, leaf, bark, root, log, flower, fruit or pod of a plant; or 25

(ii) any thing which is claimed by any person, or which appears from any accompanying document, or any packaging, label or mark, or any other circumstances, to contain any part or derivative of a plant; 30

“recent lineage”, in relation to a hybrid animal, means 4 generations in the lineage of the hybrid animal that immediately precede the hybrid animal;” 35

(d) by deleting the definition of “scheduled species” in subsection (1) and substituting the following definitions:

““scheduled species” means —

(a) any animal specified in the Schedule, including any readily recognisable part or derivative of the animal;

(b) any hybrid animal that has in its recent lineage any animal specified in Appendix I or II of the Schedule, including any readily recognisable part or derivative of the hybrid animal; or

(c) any plant specified in the Schedule, including any readily recognisable part or derivative of the plant;

“seized item” means any scheduled species, article, conveyance, receptacle, package or other thing seized by an authorised officer under this Act.”; and

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

“(2) In this Act, unless the context otherwise requires, a reference to —

(a) an animal specified in Appendix I of the Schedule includes a reference to a hybrid animal that has the firstmentioned animal in the recent lineage of the hybrid animal; or

(b) an animal specified in Appendix II of the Schedule includes a reference to a hybrid animal (not being a hybrid animal mentioned in paragraph (a)) that has the firstmentioned animal in the recent lineage of the hybrid animal.”.

New section 2A

3. The principal Act is amended by inserting, immediately after section 2, the following section:

“Meaning of transit in Singapore

2A. For the purposes of this Act, a scheduled species is in transit in Singapore only if — 5

(a) the scheduled species is supported by a prescribed document that —

(i) is issued on or before, or within 14 days after, the date on which the scheduled species is brought into Singapore; and 10

(ii) specifies a port, an airport or any other place outside Singapore as the destination for the scheduled species; and

(b) one of the following conditions is satisfied: 15

(i) the scheduled species remains at all times in or on the conveyance in or on which it is brought into Singapore, pending transport of the scheduled species to the port, airport or other place outside Singapore; 20

(ii) the scheduled species is removed from the conveyance in or on which it is brought into Singapore and is either returned to the same conveyance or transferred directly to another conveyance, pending transport of the scheduled species to the port, airport or other place outside Singapore, and is kept under the control of the Director-General or an authorised officer while being so removed, returned or transferred; 25

(iii) the scheduled species is removed from the conveyance in or on which it is brought into Singapore and kept under the control of the Director-General or an authorised officer for a period not exceeding 14 days, or such longer period as the Director-General may approve, pending transport of the scheduled species to the port, airport or other place outside Singapore.”.

Repeal and re-enactment of sections 4 and 5 and new section 5A

4. Sections 4 and 5 of the principal Act are repealed and the following sections substituted therefor:

“Restriction on import, export, etc., of scheduled species

4.—(1) Any person who —

- (a) imports, introduces from the sea, exports or re-exports any scheduled species without a valid permit;
- (b) has in the person’s possession or under the person’s control, or sells, or offers, exposes or advertises for sale, or displays to the public, any scheduled species that is imported, or introduced from the sea, without a valid permit; or
- (c) sells, or offers, exposes or advertises for sale, or displays to the public, any scheduled species that is specified by the Minister by notification in the *Gazette*,

shall be guilty of an offence.

(2) Any person (except a person mentioned in section 5A(1) or (2)) who is guilty of an offence under subsection (1)(a), (b) or (c) shall be liable on conviction —

- (a) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix I of the Schedule — to a fine not exceeding \$100,000 for each specimen of that scheduled species (but not exceeding \$500,000 for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher) or to imprisonment for a term not exceeding 6 years or to both; and
- (b) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix II or III of the Schedule — to a fine not exceeding \$50,000 for each specimen of that scheduled species (but not exceeding \$500,000 for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher) or to imprisonment for a term not exceeding 4 years or to both.

(3) In this section and sections 5 and 5A —

“material time”, for an offence, means the time of commission of the offence;

“specimen” means an animal or a plant.

Control of scheduled species in transit

5.—(1) Every scheduled species in transit in Singapore must be accompanied by —

- (a) a valid CITES permit or certificate, or any other similar document, that is issued by the competent authority of the country of export or re-export of the scheduled species for the export or re-export of the scheduled species, and contains the prescribed information; and

(b) where required by the country of import or final destination of the scheduled species — a valid CITES permit or certificate, or any other similar document, that is issued by the competent authority of that country or destination for the import of the scheduled species, and contains the prescribed information.

(2) Different information may be prescribed under subsection (1)(a) or (b) for different classes of cases.

(3) Without limiting the expression “valid” in subsection (1)(a) or (b) —

(a) any document mentioned in subsection (1)(a) that is issued or purported to be issued by a competent authority for the export or re-export of any scheduled species after the date of the export or re-export (as the case may be) is not valid for the purposes of that provision unless —

(i) the scheduled species is a scheduled species specified in Appendix II or III of the Schedule; and

(ii) the circumstances that led to the retrospective issue of the document were not caused or contributed to by the exporter or re-exporter (as the case may be), or the importer, of the scheduled species; and

(b) any document mentioned in subsection (1)(a) or (b) that is issued or purported to be issued by a competent authority and contains any alteration is not valid for the purposes of that provision unless the alteration is —

(i) endorsed with the seal or stamp of the competent authority; and

(ii) authenticated by the signature (or signatures) of the person (or persons) who is (or are) authorised to authenticate the alteration for the competent authority.

(4) Any owner, importer, exporter or re-exporter of the scheduled species who contravenes subsection (1) shall be guilty of an offence.

(5) Any person (except a person mentioned in section 5A(1) or (2)) who is guilty of an offence under subsection (4) shall be liable on conviction —

(a) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix I of the Schedule — to a fine not exceeding \$100,000 for each specimen of that scheduled species (but not exceeding \$500,000 for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher) or to imprisonment for a term not exceeding 6 years or to both; and

(b) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix II or III of the Schedule — to a fine not exceeding \$50,000 for each specimen of that scheduled species (but not exceeding \$500,000 for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher) or to imprisonment for a term not exceeding 4 years or to both.

(6) In this section, “alteration”, for a document, includes deletion or erasure of anything in the document.

Penalty for corporate offenders, etc., for offence under section 4 or 5

5A.—(1) Any corporation, unincorporated association or partnership that is guilty of an offence under section 4(1)(a), (b) or (c) or 5(4) shall be liable on conviction —

5 (a) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix I of the Schedule — to a fine not exceeding \$200,000 for each specimen of that scheduled species (but not exceeding \$1 million for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher); and

10 (b) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix II or III of the Schedule — to a fine not exceeding \$100,000 for each specimen of that scheduled species (but not exceeding \$1 million for, or the market value (at the material time of the offence) of, all the specimens of that scheduled species comprised in the offence, whichever is higher).

15 (2) Where a person mentioned in section 20(2) or 20A(2) in relation to a corporation, an unincorporated association or a partnership is guilty of the same offence mentioned in subsection (1) as is the corporation, unincorporated association or partnership, the person shall be liable on conviction —

25 (a) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix I of the Schedule — to a fine not exceeding the amount specified in subsection (1)(a) or to imprisonment for a term not exceeding 8 years or to both; and

30 (b) in the case where the offence is committed in respect of one or more specimens of any scheduled species specified in Appendix II or III of the Schedule — to a fine not exceeding the amount specified in subsection (1)(b) or to imprisonment for a term not exceeding 6 years or to both.”.

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Repeal and re-enactment of section 7

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

“Permit for import, export, etc., of scheduled species

7.—(1) Any person who wishes to import, introduce from the sea, export or re-export any scheduled species must apply to the Director-General for a permit. 5

(2) Every application under subsection (1) must —

(a) be made in the form and manner that the Director-General requires; and 10

(b) be supported by the documents and information that the Director-General requires to decide on the application.

(3) Subject to subsection (4), the Director-General may do either of the following on an application made in respect of any scheduled species under subsection (1): 15

(a) issue to the applicant a permit or certificate to import, introduce from the sea, export or re-export (as the case may be) the scheduled species, subject to any condition or restriction the Director-General thinks fit; 20

(b) refuse the application.

(4) The Director-General must refuse an application in respect of any scheduled species made under subsection (1) that is accompanied or supported by any CITES permit or certificate, or any other similar document (called in this subsection the document), if — 25

(a) the document is issued or purported to be issued by the competent authority of a country for the export or re-export of the scheduled species after the date of the export or re-export (as the case may be) and — 30

(i) the scheduled species is a scheduled species specified in Appendix I of the Schedule; or

(ii) the circumstances that led to the retrospective issue of the document were caused by or contributed to by the exporter or re-exporter (as the case may be), or the importer, of the scheduled species; or

(b) the document is issued or purported to be issued by the competent authority of a country for the import, export or re-export of the scheduled species and contains any alteration, unless the alteration is —

(i) endorsed with the seal or stamp of the competent authority; and

(ii) authenticated by the signature (or signatures) of the person (or persons) who is (or are) authorised to authenticate the alteration for the competent authority.

(5) In this section, “alteration”, for a document, includes deletion or erasure of anything in the document.”.

Amendment of section 11

6. Section 11 of the principal Act is amended —

(a) by inserting the word “and” at the end of subsection (1)(a);

(b) by deleting the word “; and” at the end of subsection (1)(b) and substituting a full-stop;

(c) by deleting paragraph (c) of subsection (1);

(d) by deleting subsection (3) and substituting the following subsections:

“(3) An authorised officer may seize the following:

(a) any scheduled species liable to seizure;

- (b) any receptacle or package in which the scheduled species mentioned in paragraph (a) is found, and any handling or other device used for or in connection with the scheduled species; 5
- (c) any thing (including any animal or plant that is not a scheduled species) that is used to conceal the scheduled species mentioned in paragraph (a);
- (d) any article or conveyance with which, or by means of which, an offence under section 4 or 5 is reasonably suspected to be, or has been, committed; 10
- (e) any food or drink which accompanies the scheduled species mentioned in paragraph (a); 15
- (f) any other thing which appears to be or to contain evidence of an offence under section 4 or 5.

(3A) Where any thing seized under subsection (3) is perishable, the Director-General or an authorised officer may dispose of it in any manner that the Director-General or authorised officer thinks fit.”; 20

- (e) by deleting the words “exported, re-exported or introduced from the sea in contravention of section 4(1)” in subsection (4)(a) and substituting the words “introduced from the sea, exported or re-exported in contravention of section 4(1)(a)”;
- (f) by deleting the words “section 4(2)” in subsection (4)(b) and substituting the words “section 4(1)(b)”;
- (g) by deleting the words “section 4(3)” in subsection (4)(c) and substituting the words “section 4(1)(c)”. 30

Amendment of section 12

7. Section 12(2) of the principal Act is amended by deleting the words “section 11(1)(c) or (3)” and substituting the words “section 11(3)”.

5 **New section 12A**

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

“Authorised officer’s assistants

10 **12A.** An authorised officer may be accompanied or assisted by persons necessary for the exercise of the authorised officer’s powers under section 9, 11 or 12.”.

Repeal and re-enactment of section 15 and new sections 15A to 15E

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

“Seized items liable or not liable to forfeiture

15. All seized items are liable to forfeiture under section 15A or 15B, except a conveyance which —

- (a) is of more than 200 tons net; or
- 20 (b) is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

Forfeiture, etc., of seized items by court in criminal proceedings

25 **15A.—(1)** A court may, in any criminal proceeding against a person for an offence under this Act, order that a seized item in connection with the offence be forfeited to the Director-General if —

- 30 (a) where the seized item is a conveyance — the person is convicted of the offence and the conveyance is proved to have been used in the commission of the offence; or

(b) where the seized item is not a conveyance — the court is satisfied that an offence under this Act has been committed and that the seized item was the subject matter, or used (or intended to have been used) in the commission, or constitutes evidence, of the offence. 5

(2) The court may consider the question of forfeiture under subsection (1) on its own motion if no party raises the question in the proceedings before the court.

(3) A conveyance mentioned in subsection (1)(a) must not be forfeited under that provision if its owner establishes that the conveyance was unlawfully in the possession of another person without the consent of the owner. 10

(4) The court may make an order under subsection (1)(b) for the forfeiture of any seized item even though no person is convicted of an offence. 15

(5) If the court does not order the forfeiture of a seized item under subsection (1), the court may —

(a) order the release of the seized item to the owner of or the person entitled to the seized item; or

(b) where the owner of or the person entitled to the seized item cannot be ascertained or found — make any order or give any direction that the court thinks fit in relation to the disposal of the seized item. 20

(6) The court must not order the release of a seized item under subsection (5) if the court is satisfied that the seized item is relevant for the purposes of any investigation or criminal proceeding for an offence under this Act. 25

Forfeiture, etc., of seized items (except conveyance) in other circumstances

15B.—(1) The Director-General must, in respect of a seized item, give its owner (if known) and the person from whom it was seized a written notice requiring any claim for the seized item to be made in accordance with subsection (2) within the time specified in the notice, if — 30

(a) no criminal proceeding is instituted against any person for an offence under this Act in relation to the seized item; and

(b) the Director-General is satisfied that the seized item is not relevant for the purposes of any investigation under this Act.

(2) A person who wishes to claim the seized item (called in this section the claimant) must submit, either personally or through an authorised agent, a written claim (containing the basis of the claimant's claim) to the Director-General.

(3) The seized item is forfeited to the Director-General if —

(a) no claim is received for the seized item within the period stated in the written notice mentioned in subsection (1); or

(b) the owner of the seized item consents to its disposal by the Director-General.

(4) If the Director-General receives a written claim for the seized item under subsection (2) within the period stated in the written notice mentioned in subsection (1), the Director-General may release the seized item to the claimant or refer the matter to a District Judge or Magistrate for decision.

(5) Where the Director-General refers the matter to a District Judge or Magistrate for decision under subsection (4), the District Judge or Magistrate may issue a summons requiring the claimant or any other person to appear before the District Judge or Magistrate to be examined or give evidence on the matter.

(6) The District Judge or Magistrate may order that the seized item be forfeited to the Director-General, if the District Judge or Magistrate is satisfied that an offence under this Act has been committed and that the seized item was the subject matter, or used (or intended to have been used) in the commission, or constitutes evidence, of the offence.

(7) If the District Judge or Magistrate does not order the forfeiture of a seized item under subsection (6), the District Judge or Magistrate may —

- (a) order the release of the seized item to the owner of or the person entitled to the seized item; or 5
- (b) where the owner of or the person entitled to the seized item cannot be ascertained or found — make any order or give any direction that the District Judge or Magistrate thinks fit in relation to the disposal of the seized item. 10

(8) In this section and section 15C, “authorised agent”, for a claimant, means a person who is designated in writing by the claimant as the claimant’s authorised agent for the purposes of the applicable section.

Release of seized conveyance in other circumstances 15

15C.—(1) Where a conveyance is seized under this Act, the Director-General must give its owner (if known) and the person from whom it was seized a written notice requiring any claim for the conveyance to be made in accordance with subsection (2) within the time specified in the notice, if — 20

- (a) no criminal proceeding is instituted against any person for an offence under this Act in relation to the conveyance; and
- (b) the Director-General is satisfied that the conveyance is not relevant for the purposes of any investigation under this Act. 25

(2) A person who wishes to claim the conveyance (called in this section the claimant) must submit, either personally or through an authorised agent, a written claim (containing the basis of the claimant’s claim) to the Director-General. 30

(3) Subject to subsection (4), if the Director-General receives a written claim for the conveyance under subsection (2) within the period stated in the written notice mentioned in subsection (1),

the Director-General must release the conveyance to the claimant.

(4) The Director-General may refer the matter to a District Judge or Magistrate for decision if —

- 5 (a) no claim is received for the conveyance within the period stated in the written notice mentioned in subsection (1); or
- (b) the Director-General is unable to ascertain the owner of or the person entitled to the conveyance.

10 (5) Where the Director-General refers the matter to a District Judge or Magistrate for decision under subsection (4), the District Judge or Magistrate may issue a summons requiring the claimant or any other person to appear before the District Judge or Magistrate to be examined or give evidence on the matter.

15 (6) After considering the matter, the District Judge or Magistrate may —

- (a) order the release of the conveyance to the owner of or the person entitled to the conveyance; or
- 20 (b) where the owner of or the person entitled to the conveyance cannot be ascertained or found — make any order or give any direction that the District Judge or Magistrate thinks fit in relation to the disposal of the conveyance.

Director-General's powers after forfeiture

25 **15D.**—(1) Where any item is forfeited to the Director-General under or pursuant to section 15A or 15B, the Director-General may —

- 30 (a) in the case where the item is a scheduled species which was brought into Singapore in or on a conveyance in contravention of this Act — direct the owner of the conveyance to repatriate the scheduled species to the place from which the scheduled species was brought into Singapore or

any other place designated by the Director-General;
or

(b) in any case — dispose of the item in any manner that the Director-General thinks fit.

(2) The owner of a conveyance who is directed to repatriate any scheduled species under subsection (1)(a) must, at the owner's expense, arrange for — 5

(a) the repatriation of the scheduled species in accordance with the direction; and

(b) the proper care and maintenance of the scheduled species during the repatriation. 10

(3) A person is not required to comply with subsection (2) in respect of a direction made under subsection (1)(a) unless the direction is made within —

(a) 12 months after the date on which the scheduled species mentioned in the direction was brought into Singapore; or 15

(b) 6 months after the date on which criminal proceedings for the offence in connection with the contravention mentioned in subsection (1)(a) are concluded or the date on which the offence is compounded, 20

whichever is the later.

(4) Any person who, without reasonable excuse, contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both. 25

Expenses

15E.—(1) The following persons are responsible for any expenses incurred by the Director-General or any authorised officer for the seizure, detention, storage, housing, care, maintenance, testing, transport, repatriation or disposal of any seized item: 30

(a) in the case where the item is a scheduled species which was brought into Singapore in contravention of this Act — the owner of the scheduled species and the person who brought the scheduled species, or caused the scheduled species to be brought, into Singapore (jointly and severally);

(b) in the case where the item is a scheduled species which was being exported or re-exported from Singapore in contravention of this Act — the owner, and the exporter or re-exporter (as the case may be), of the scheduled species (jointly and severally);

(c) in the case where the item is seized in connection with —

(i) any scheduled species mentioned in paragraph (a) — the persons mentioned in that paragraph, jointly and severally; or

(ii) any scheduled species mentioned in paragraph (b) — the persons mentioned in that paragraph, jointly and severally;

(d) in any other case — the owner of the item.

(2) If the amount of the expenses mentioned in subsection (1) is not paid by the person responsible for the expenses under that subsection within 14 days after demand, the amount may be reported to a Magistrate’s Court or a District Court and recovered in the same manner as if it were a fine imposed by a Magistrate’s Court or a District Court.”.

Amendment of section 17

10. Section 17(1) of the principal Act is amended —

(a) by deleting the words “produce any permit” and substituting the words “produce any document”;

(b) by inserting, immediately after the word “false” in paragraph (a), the words “or misleading”; and

(c) by deleting paragraph (b) and substituting the following paragraph:

“(b) produces any document which the person knows or has reason to believe —

- (i) is false or misleading in any material particular; 5
- (ii) has not been given by the person by whom it is purported to have been given; or
- (iii) contains any unauthorised alteration or has been tampered with in any way,”. 10

Repeal and re-enactment of section 20 and new section 20A

11. Section 20 of the principal Act is repealed and the following sections substituted therefor: 15

“Offences by corporations

20.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and 20

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person — 25

(a) who is —

(i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and 30

(b) who —

(i) consented or connived, or conspired with others, 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 corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (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 corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

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

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

- (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and 5
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(7) The Minister may make rules to provide for the application of any provision of this section, with any modification that the Minister considers appropriate, to any corporation formed or recognised under the law of a territory outside Singapore. 10

Offences by unincorporated associations or partnerships

20A.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that — 15

- (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and 20
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person — 25

- (a) who is —
 - (i) an officer of the unincorporated association or a member of its governing body;
 - (ii) a partner in the partnership; or 30

(iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, 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 unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (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 unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof as the unincorporated association or partnership would bear.

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

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

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“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

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(b) any person purporting to act in any such capacity;

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“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

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(7) The Minister may make rules to provide for the application of any provision of this section, with any modification that the Minister considers appropriate, to any unincorporated association or partnership formed or recognised under the law of a territory outside Singapore.”

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New sections 22A, 22B and 22C

12. The principal Act is amended by inserting, immediately after section 22, the following sections:

“Evidence

5 **22A.** A document purporting to be under the hand of the Director-General or an authorised officer on any matter or thing in connection with the administration or enforcement of, or any investigation carried out under, this Act is admissible as evidence in any proceedings under this Act and is prima facie evidence of the facts stated in the document.

Protection of informers

10 **22B.—**(1) Except as provided in subsection (3), no witness in any civil or criminal proceedings is obliged or permitted —

(a) to disclose the name, address or other particulars of an informer who has given information with respect to an offence under this Act, or the substance of the information received from the informer; or

15 (b) to answer any question if the answer would lead, or would tend to lead, to the discovery of the name, address or other particulars of the informer.

(2) If any document which is in evidence or liable to inspection in any civil or criminal proceedings, contains any entry in which the informer is named or described or which might lead to the discovery of the informer’s identity, the court must cause the entry to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

25 (3) If, during any civil or criminal proceedings —

(a) the court, after full inquiry into the case, believes that the informer wilfully made a material statement which the informer knew or believed to be false or did not believe to be true; or

- (b) the court is of the opinion that justice cannot be fully done in the proceedings without discovery of the identity of the informer,

it is lawful for the court to require the production of the original information, in such form as the court may accept, and to permit inquiry and require full disclosure of the informer.

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(4) In this section, “informer” includes every person who is not called as a witness for the prosecution in a criminal case and who has made any complaint or report or given any information in respect of any offence under this Act alleged to have been committed by any person.

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Protection from personal liability

22C. No liability shall lie against the Director-General or an authorised officer, or any person acting under the direction of the Director-General or an authorised officer, for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

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

(b) the performance or purported performance of any function under this Act.”.

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Amendment of section 25

13. Section 25 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) If an offence is compounded under this Act, any seized item (except a conveyance) in connection with the offence is liable to forfeiture under section 15A or 15B.”.

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Repeal and re-enactment of section 27

14. Section 27 of the principal Act is repealed and the following section substituted therefor:

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“Service of documents

27.—(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.

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

- (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;
- 10 (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;
- 15 (d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;
- (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
- 20 (f) by sending it by email to the individual’s last email address.

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

- (a) by giving it to any partner or other similar officer of the partnership;
- 30 (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

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

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served — 5

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

(b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore; 10

(c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or 15

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

(5) 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; 20

(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 sent; and

(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). 25

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

(7) This section does not apply to documents to be served in proceedings in court. 30

(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

(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;

“document” includes a notice permitted or required by this Act to be served;

“last email address” means 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;

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

Amendment of section 29

15. Section 29(1) of the principal Act is amended by deleting the words “export, re-export and introduction from the sea” in paragraph (a) and substituting the words “introduction from the sea, export or re-export”.

Saving and transitional provisions

16.—(1) Section 2(2) of the principal Act as in force immediately before the date of commencement of section 3 continues to apply in respect of any scheduled species brought into Singapore before that date for the purpose of determining whether the scheduled species is in transit in Singapore on or after that date, as if section 3 had not been enacted.

(2) To avoid doubt, section 5 of the principal Act as in force immediately before the date of commencement of section 4 continues to apply to any scheduled species that is in transit in Singapore (as defined in section 2(2) of the principal Act as in force immediately before that date) immediately before that date and continues to be in

transit in Singapore (as so defined) on or after that date, as if section 4 had not been enacted.

(3) Section 7 of the principal Act as in force immediately before the date of commencement of section 5 continues to apply to any application for a permit that is made under section 7 of the principal Act before that date and is pending immediately before that date, as if section 5 had not been enacted.

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(4) Section 15 of the principal Act as in force immediately before the date of commencement of section 9 continues to apply to any thing seized before that date (under section 11 of the principal Act as in force immediately before that date), as if section 9 had not been enacted.

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

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(6) This section does not affect section 16 of the Interpretation Act 1965.

EXPLANATORY STATEMENT

This Bill seeks to amend the Endangered Species (Import and Export) Act 2006 for the following main purposes:

- (a) to strengthen Singapore's regulatory regime for trade in species governed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- (b) to give effect to certain CITES Resolutions;
- (c) to enhance criminal penalties in the Act;
- (d) to enhance enforcement powers in the Act;
- (e) to improve the administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends certain definitions in section 2, and inserts new definitions of certain expressions used in the Bill. These include the following:

- (a) the definition of “readily recognisable part or derivative” for an animal is amended to exclude from the definition urine, faeces and ambergris that are naturally excreted, in line with CITES Resolution 9.6;
- (b) the definition of “scheduled species” is amended to include certain types of hybrid animals, in line with CITES Resolution 10.17;
- (c) a new definition of “recent lineage”, in relation to a hybrid animal, is inserted to explain that recent lineage for a hybrid animal refers to 4 generations in the lineage of the hybrid animal that immediately precede the hybrid animal.

Clause 3 inserts a new section 2A on the meaning of being in transit in Singapore in the case of a scheduled species brought into Singapore. Currently, under the Act, in order for any scheduled species to be considered to be in transit in Singapore, the scheduled species must (among other things) be brought into Singapore solely for the purpose of taking the scheduled species out of Singapore. The new section 2A replaces this with the stipulation that a scheduled species (in order to come within the meaning of being in transit) must (among other things) be supported by a prescribed document (which will be specified in rules to be made under section 29) that —

- (a) is issued on or before, or within 14 days after, the date on which the scheduled species is brought into Singapore; and
- (b) specifies a port, an airport or any other place outside Singapore as the destination for the scheduled species.

Clause 4 repeals and re-enacts sections 4 and 5 and inserts a new section 5A.

The re-enacted section 4 —

- (a) enhances the fines and imprisonment terms for the offences in the section relating to the import, export, sale, etc., of scheduled species, including pegging the cap for a fine for an offence to the market value of the scheduled species comprised in the offence (in the case where the market value is higher); and
- (b) makes the current position clear that the fine for an offence in respect of a scheduled species is applied on the basis of each specimen (i.e., each animal or plant (including any readily recognisable part or derivative of the animal or plant)) of the scheduled species, subject to the cap specified for the offence.

The re-enacted section 5 deals with certain documentary requirements for scheduled species in transit in Singapore, in line with CITES Resolution 12.3, and also includes the changes concerning criminal penalties for the re-enacted section 4.

A new section 5A is inserted to provide for specific penalties for any corporation, unincorporated association or partnership that is guilty of an offence under the re-enacted section 4(1)(a), (b) or (c) or 5(4), and a person mentioned in section 20(2) or 20A(2) (in relation to the corporation, unincorporated association or partnership) who is guilty of the same offence as the corporation, unincorporated association or partnership.

Clause 5 repeals and re-enacts section 7 (on permits for import, export, etc., of scheduled species) to make certain improvements to the section and deal with certain documentary requirements, in line with CITES Resolution 12.3.

Clause 6 amends section 11 to expand the seizure powers of authorised officers and empower authorised officers (in addition to the Director-General, Wildlife Trade Control (the DG)) to dispose of seized items that are perishable, and to make certain improvements and consequential changes to the section.

Clause 7 makes a consequential amendment to section 12(2).

Clause 8 inserts a new section 12A (modelled on the corresponding section in the Wildlife Act 1965) to provide that an authorised officer may be accompanied or assisted by persons necessary for the exercise of the authorised officer's powers under section 9, 11 or 12.

Clause 9 repeals and re-enacts section 15 and inserts new sections 15A to 15E.

The re-enacted section 15 provides that all seized items under the Act are liable to forfeiture under the new section 15A or 15B, except a conveyance which is of more than 200 tons net or is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

The new section 15A deals with the court's power to forfeit, etc., seized items in criminal proceedings for offences under the Act.

The new section 15B provides for the forfeiture, etc., of a seized item (except conveyance) in the case where no criminal proceeding is instituted against any person for an offence under the Act in relation to the seized item.

The new section 15C deals specifically with a conveyance seized under the Act in the case where no criminal proceeding is instituted against any person for an offence under the Act in relation to the conveyance.

The new section 15D deals with the DG's powers to dispose, etc., an item forfeited under the new section 15A or 15B. The DG's powers include the power to require the repatriation of any scheduled species brought into Singapore in contravention of the Act.

The new section 15E requires the expenses of seizure, storage, maintenance, etc., of a seized item to be borne by certain persons specified in the section.

Clause 10 amends section 17(1) (on false declarations, etc.) to make certain improvements and consequential changes to the section.

Clause 11 repeals and re-enacts section 20 and inserts a new section 20A.

The re-enacted section 20 deals with corporate offenders and attributes criminal liability to officers of corporate entities for offences committed by those entities.

The new section 20A deals with unincorporated entities and attributes criminal liability to officers, etc., of unincorporated entities for offences committed by those entities.

Clause 12 inserts new sections 22A, 22B and 22C to deal with various matters.

The new section 22A deals with evidentiary matters.

The new section 22B relates to the protection of the identity of informers with respect to offences under the Act.

The new section 22C is a standard provision protecting the DG, authorised officers and persons acting under the directions of the DG or an authorised officer from personal liability for any act or omission in the execution of any power, or performance of any function, under the Act, if the act or omission was done in good faith and with reasonable care.

Clause 13 amends section 25(2) to align with the changes introduced by the new sections 15A, 15B and 15C.

Clause 14 repeals and re-enacts section 27 to upgrade the section to the modern text on service of documents under the Act. The section does not deal with service of court documents as this is governed by other written law.

Clause 15 makes a consequential amendment to section 29(1)(a).

Clause 16 deals with saving and transitional provisions. It also empowers the Minister to make regulations on saving and transitional provisions for any provision in the Bill. This power is available only for a period of 2 years after the date of commencement of that provision.

EXPENDITURE OF PUBLIC MONEY

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