

Sedition (Repeal) Bill

Bill No. 23/2021.

Read the first time on 13 September 2021.

SEDITION (REPEAL) ACT 2021

(No. of 2021)

ARRANGEMENT OF SECTIONS

Section

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A BILL

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An Act to repeal the Sedition Act and to make consequential amendments to certain other Acts.

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 Sedition (Repeal) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Repeal of Sedition Act

2.—(1) The Sedition Act (called in this section the repealed Act) is repealed.

(2) Despite subsection (1) —

- 10 (a) sections 5, 6 and 7 of the repealed Act as in force immediately before the date of commencement of this Act (called in this section the appointed date) continue to apply in relation to a proceeding for an act committed before that date;
- 15 (b) section 8 of the repealed Act as in force immediately before the appointed date continues to apply in relation to a seditious publication reasonably suspected as having been printed, published, sold, offered for sale, distributed, reproduced or imported before that date;
- 20 (c) section 9 of the repealed Act as in force immediately before the appointed date continues to apply to a person convicted of an offence committed before that date;
- 25 (d) section 10 of the repealed Act as in force immediately before the appointed date continues to apply in relation to any publication the issue or circulation of which commenced before that date; and
- (e) section 11 of the repealed Act as in force immediately before the appointed date continues to apply in relation to an act reasonably suspected as having been committed before that date.

Consequential amendments to Criminal Procedure Code

3. The Criminal Procedure Code is amended —

(a) by deleting sub-paragraph (i) of section 44(1)(c) and substituting the following sub-paragraph:

“(i) any material which forms the subject matter of a charge under section 267C, 298A or 505 of the Penal Code; or”;

(b) by deleting the item relating to section 267C in the First Schedule and substituting the following item:

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267C	Uttering words, making document, etc., containing incitement to violence, etc.	May arrest without warrant	Warrant	Not bailable	Imprisonment for 5 years, or fine, or both	Magistrate's Court or District Court
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”;

(c) by deleting the words “Shall not arrest without warrant” under the third column in the item relating to section 298 in the First Schedule and substituting the words “May arrest without warrant”;

(d) by deleting the item relating to section 298A in the First Schedule and substituting the following item:

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298A	Promoting enmity between different groups on grounds of religion or race, and doing acts prejudicial to maintenance of harmony	May arrest without warrant	Summons	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court
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”; and

(e) by deleting the item relating to section 505 in the First Schedule and substituting the following item:

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505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace	May arrest without warrant	Warrant	Not bailable	Imprisonment for 3 years, or fine, or both	Magistrate's Court or District Court
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Consequential amendment to Penal Code

4. Section 267C of the Penal Code is repealed and the following section substituted therefor:

5 **“Uttering words, making document, etc., containing incitement to violence, etc.**

267C.—(1) This section applies where a person —

- (a) utters any words, or makes any sign or visible representation;
- (b) places before a person any object;
- 10 (c) posts, publishes, distributes, sells or offers for sale any document; or
- (d) communicates any electronic record,

containing any incitement to violence, counselling disobedience to the law or to a lawful order of a public servant, or likely to lead to any breach of the peace, and the person does so —

- 15 (e) intending for violence, disobedience to the law or such lawful order, or breach of the peace to occur; or
- (f) knowing or having reason to believe that violence, disobedience to the law or such lawful order, or breach of the peace, is likely to occur as a result.

(2) This section also applies where a person —

- 25 (a) makes, prints or otherwise reproduces, imports, possesses or has under the person’s control any document mentioned in subsection (1), for the purpose of posting, publishing, distributing, selling or offering for sale that document; or
- (b) makes any electronic record mentioned in subsection (1) for the purpose of communicating that electronic record,

30 and the person does so —

- (c) intending for violence, disobedience to the law or such lawful order, or breach of the peace to occur by

the carrying out of the purpose mentioned in paragraph (a) or (b), as the case may be; or

- (d) knowing or having reason to believe that violence, disobedience to the law or such lawful order, or breach of the peace, is likely to occur by the carrying out of that purpose.

(3) The person in subsection (1) or (2) shall be guilty of an offence and shall be punished on conviction with imprisonment for a term which may extend to 5 years, or with fine, or with both.

(4) In subsection (1), “counselling disobedience to the law or to a lawful order of a public servant” includes (but is not limited to) providing instruction, advice or information that promotes disobedience to the law or such order.”.

Consequential amendment to Postal Services Act

5. Section 37 of the Postal Services Act is amended by deleting the word “seditious,” in paragraph (a).

Consequential amendments to Public Order and Safety (Special Powers) Act 2018

6. Section 2 of the Public Order and Safety (Special Powers) Act 2018 is amended —

- (a) by deleting paragraph (a) of the definition of “subversive document” in subsection (1) and substituting the following paragraphs:

“(a) that has a tendency to excite persons in Singapore to attempt to procure in Singapore, the alteration (otherwise than by lawful means) of any matter established by law;

(aa) that has a tendency to bring into hatred or contempt or to excite disaffection against the administration of justice in Singapore;” and

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

“(5) A document is not considered as having the tendency mentioned in paragraph (a) or (aa) of the definition of “subversive document” in subsection (1) by reason only that it has a tendency —

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(a) to show that the Government has been misled or mistaken in any of its measures;

(b) to point out errors or defects in the Government, in any written law or in the administration of justice with a view to the remedying of such error or defect;

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(c) to persuade citizens of Singapore or residents in Singapore to attempt to procure by lawful means the alteration of any matter in Singapore; or

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(d) to point out, with a view to their removal, any matters producing or having a tendency to produce feelings of ill-will and enmity between different races or classes of the population of Singapore,

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if the document does not otherwise have the tendency mentioned in paragraph (a) or (aa) of that definition.”.

Consequential amendments to Singapore Armed Forces Act

30 7. Section 2(1) of the Singapore Armed Forces Act is amended —

(a) by deleting the definitions of “publication” and “words” and substituting the following definition:

““publication” includes all written or printed matter and everything whether of a nature similar to written or printed matter or not containing any visible representation or by its form, shape or in any other manner capable of suggesting words or ideas, and every copy and reproduction or substantial reproduction of any publication;”; and

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(b) by deleting the full-stop at the end of the definition of “warrant officer” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

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““words” includes any phrase, sentence or other consecutive number or combination of words, oral or written.”.

Consequential amendments to Trade Disputes Act

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8. Section 15 of the Trade Disputes Act is amended —

(a) by deleting the words “, or sedition,” in subsection (4); and

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

“(4A) Nothing in this section —

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(a) affects the power of a court to punish for contempt of court within the meaning of section 3 of the Administration of Justice (Protection) Act 2016; or

(b) applies to an act that is an offence under section 267C, 298, 298A or 505 of the Penal Code, or section 17E or 17F of the Maintenance of Religious Harmony Act.”.

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EXPLANATORY STATEMENT

This Bill seeks to repeal the Sedition Act. Most types of conduct that are offences under the Sedition Act are also offences under the Penal Code or the Maintenance of Religious Harmony Act, or are punishable as contempt of court under the Administration of Justice (Protection) Act 2016, and have different requirements.

The Bill also makes amendments to certain other Acts that are consequential on the repeal of the Sedition Act.

Clause 1 relates to the short title and commencement.

Clause 2(1) repeals the Sedition Act.

Clause 2(2) saves the application of various sections of the Sedition Act, as follows:

- (a) sections 5 (which, among other things, specifies a limitation period for proceedings under the Act), 6 and 7 (both of which provide for matters of evidence for proceedings under the Act) continue to apply to a proceeding for an act committed before the repeal;
- (b) section 8 (which provides for the power to search for seditious publications) continues to apply in relation to seditious publications reasonably suspected of having been printed, published, sold, offered for sale, distributed, reproduced or imported before the repeal;
- (c) section 9 (which empowers a court to make further orders against a person convicted of an offence of publishing a newspaper containing seditious matter) continues to apply to a conviction for an offence committed before the repeal;
- (d) section 10 (which, among other things, empowers a court to prohibit circulation of seditious publications) continues to apply in relation to a publication the issue or circulation of which commenced before the repeal;
- (e) section 11 (which empowers a police officer to arrest without warrant a person reasonably suspected of having committed an offence under the Act) continues to apply in relation to an act reasonably suspected of having been committed before the repeal.

Clause 3 amends the Criminal Procedure Code —

- (a) to remove a reference to seditious matter in section 44 (security for good behaviour from suspected offenders, etc.) as it is no longer needed;

- (b) to make sections 298, 298A and 505 of the Penal Code offences that are arrestable without a warrant, as corresponding offences under the Sedition Act are arrestable without a warrant; and
- (c) to amend the First Schedule consequent to the repeal and re-enactment of section 267C of the Penal Code.

Clause 4 repeals and re-enacts section 267C of the Penal Code. The new section 267C —

- (a) is expanded to include certain types of conduct currently covered by section 4 of the Sedition Act;
- (b) requires that, in a case where the conduct consists of making, printing, reproducing, importing, possessing or having under control an offending document, or making an offending electronic record, the person must have done so for the purpose of posting, publishing, distributing, selling or offering for sale the document or communicating the electronic record, and with the fault element as described in paragraph (c) below;
- (c) clarifies a fault element of the offence, *viz.* the person doing the act or doing the act for a specified purpose must have intended for the specified outcome to occur as a result of carrying out that act or purpose, or knows or has reason to believe that the specified outcome is likely to occur as a result of this; and
- (d) defines the term “counselling disobedience to the law or to a lawful order of a public servant” as including the provision of instruction, advice or information that promotes such disobedience.

Clause 5 amends section 37 of the Postal Services Act (Penalty for sending anything indecent, etc., by post) by removing the prohibition on the sending by post of any article that has any word, mark or design of a seditious character.

Clause 6 amends the definition of “subversive document” in the Public Order and Safety (Special Powers) Act 2018 to replace the reference to having a subversive tendency within the meaning of the Sedition Act, with a reference to having a tendency for certain matters currently found in the definition of “seditious tendency” in section 3 of the Sedition Act.

Clause 7 amends the definitions of “publication” and “words” in the Singapore Armed Forces Act, which currently incorporates by reference the definitions of those terms in the Sedition Act, by replicating those definitions in the Singapore Armed Forces Act.

Clause 8 amends section 15 of the Trade Disputes Act (Conspiracy in trade disputes). The section provides that an agreement or a combination by 2 or more persons to do an act in contemplation of a trade dispute between employers and employees is not punishable as a conspiracy nor is it actionable, if the act when committed by one person is not a crime, or if the act done without the agreement or combination is not itself actionable. Section 15(4) currently provides that this does not affect the law relating to sedition. The amendment replaces this reference to the law on sedition with various offences under the Penal Code and the power to deal with contempt of court as defined in section 3 of the Administration of Justice (Protection) Act 2016.

EXPENDITURE OF PUBLIC MONEY

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