

Planning (Amendment) Bill

Bill No. 3/2017.

Read the first time on 9 January 2017.

National Archives of Singapore

A BILL

intituled

An Act to amend the Planning Act (Chapter 232 of the 1998 Revised Edition).

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

Short title and commencement

1. This Act is the Planning (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 **Amendment of section 2**

2. Section 2 of the Planning Act is amended —

(a) by inserting, immediately after the definition of “amendment”, the following definition:

10 ““architect” means a person who is registered as an architect under the Architects Act (Cap. 12) and who has in force a practising certificate issued under that Act;”;

(b) by deleting paragraph (c) of the definition of “breach of planning control” and substituting the following paragraph:

15 “(c) any failure to comply with any condition imposed under section 14(4) for a written permission or any condition of an authorisation under section 21(6);”;

(c) by inserting, immediately after the definition of “conservation permission”, the following definition:

20 ““developer” means the person for whom or on whose behalf development of land or works within a conservation area are carried out;”;

(d) by inserting, immediately after the definition of “development charge”, the following definition:

25 ““dormitory accommodation” includes accommodation occupied, or available for occupation, by 7 (or such other number as the Minister may, by notification in the *Gazette*, prescribe in substitution) or more individuals, where rent or other form of consideration is paid or given for the accommodation, whether by an occupant or

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another person, and whether or not the relationship of landlord and tenant is thereby created, except where the occupants consist only of the following:

- (a) an individual who is related by blood, marriage or adoption (by virtue of an order of court in Singapore or elsewhere) to all other occupants except an occupant mentioned in paragraph (b) or (c);
- (b) a domestic worker whose work permit states the premises occupied as the domestic worker's residential address;
- (c) an individual engaged to provide care or medical assistance to another occupant;";

(e) by inserting, immediately after the definition of "enforcement notice", the following definition:

" "engineer" means a person who is registered as a professional engineer under the Professional Engineers Act (Cap. 253) and who has in force a practising certificate issued under that Act;";
and

(f) by inserting, immediately after the definition of "land", the following definition:

" "land surveyor" means a person who is registered as a surveyor under the Land Surveyors Act (Cap. 156) and who has in force a practising certificate issued under that Act;".

Amendment of section 3

3. Section 3(3) of the Planning Act is amended —

(a) by inserting, immediately after paragraph (c), the following paragraph:

“(ca) the use for a purpose specified in the Fourth Schedule of a building or part of a building originally constructed as a dwelling-house constitutes development, whether such use commenced before, on or after the date of commencement of section 3(a) of the Planning (Amendment) Act 2017;”;

(b) by deleting the word “and” at the end of paragraph (h); and

(c) by deleting the full-stop at the end of paragraph (i) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(j) where a planning permission or conservation permission is cancelled under section 15(4), a planning permission or conservation permission granted for a specified period has lapsed, or a condition of an authorisation under section 21(6) is breached, the continued use of any building or land for any purpose constitutes development from the date of the cancellation, lapsing or breach, as the case may be.”.

Amendment of section 12

4. Section 12 of the Planning Act is amended —

(a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

“(1) A person must not, without planning permission, carry out or permit the carrying out of any development of any land outside a conservation area.

(2) A person must not, without conservation permission, carry out or permit the carrying out of any works within a conservation area.

(3) A person must not, without subdivision permission, subdivide or permit the subdivision of any land.”; and

(b) by deleting subsection (4) and substituting the following subsections:

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“(4) Subject to subsections (4A) and (4B), any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction; or 10

(b) if the person is a repeat offender, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 15 20

(4A) Where a contravention of subsection (2) by a person includes the demolition of a building (or part of a building) in a conservation area, the person convicted of an offence under subsection (4) for the contravention shall, in lieu of the punishment prescribed in subsection (4), be liable — 25

(a) to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 12 months or to both; and 30

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 35

(4B) Where a contravention of subsection (1) or (2) by a person involves the use of any land or building to provide dormitory accommodation, the person convicted of an offence under subsection (4) for the contravention shall, in lieu of the punishment prescribed in subsection (4), be liable —

(a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(4C) In this section, a person is a repeat offender if the person who is convicted, or found guilty, of an offence (other than a continuing offence) under subsection (4) has (whether before, on or after the date of commencement of section 4(b) of the Planning (Amendment) Act 2017) been convicted or found guilty on at least one other earlier occasion of —

(a) an offence under subsection (4) for contravening subsection (1), (2) or (3); or

(b) an offence under subsection (4) as in force immediately before that date for contravening subsection (1), (2) or (3) as in force immediately before that same date.”.

New sections 12A and 12B

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

“Presumption of permitting unauthorised development or works

12A.—(1) If a tenant or contractor of the owner of any land —

(a) carries out any development of the land in contravention of section 12(1); or 5

(b) carries out any works within a conservation area on the land in contravention of section 12(2),

the owner of the land is taken to have permitted the carrying out of the development, or permitted the carrying out of those works, as the case may be, in contravention of the same provision. 10

(2) However, it is a defence in proceedings against an owner of any land for an offence under section 12(4) for such a contravention if it is proved by the defendant, on a balance of probabilities, that the defendant —

(a) took all reasonable precautions to prevent the contravention by the tenant or contractor; or 15

(b) could not, by the exercise of due diligence, have prevented the contravention by the tenant or contractor.

(3) Without limiting the ways in which a defendant may satisfy the requirements of subsection (2)(b), a defendant satisfies those requirements if it is proved, on a balance of probabilities, that the commission of the offence occurred when the defendant was not the owner of the land in question and that the commission of the offence was due to the act or default of another person. 20 25

(4) An owner of any land may be proceeded against and convicted under a provision pursuant to this section whether or not the tenant or contractor, as the case may be, of the owner has been proceeded against or been convicted under that provision.

(5) In this section — 30

“contractor”, in relation to an owner of any land, means any person whom the owner employs, engages or hires directly to carry out any type of building works on the land;

“tenancy agreement” means an agreement, whether or not in writing and whether express or implied, under which a person lets, or licences for occupation, any land or building as a residence or place of business;

5 “tenant”, in relation to an owner of any land, means a person to whom the land is let, or licensed for occupation, by the owner of the land, under a tenancy agreement between the owner and that person.

Application for preliminary advice

10 **12B.**—(1) A person intending to apply for written permission may, in such form and manner as the competent authority may require, apply to the competent authority for preliminary advice on any matter (as may be declared by the competent authority) relating to the development of land, works within a conservation
15 area or subdivision of land, which is to be the subject of the person’s application for written permission.

(2) Any preliminary advice given by the competent authority under this section —

20 (a) does not constitute approval in principle for the proposed development, works or subdivision; and

(b) does not authorise the carrying out of the development, works or subdivision or any other development, works or subdivision.”

Amendment of section 13

25 **6.** Section 13 of the Planning Act is amended by inserting, immediately after subsection (1), the following subsections:

“(1A) Unless otherwise prescribed, a person applying for —

30 (a) planning permission for any development of any land must, before the person makes the application, appoint an architect or engineer to carry out the duties specified in section 24A; or

(b) conservation permission for any works within a conservation area must, before the person makes the

application, appoint an architect to carry out the duties specified in section 24A.

(1B) Where the qualified person appointed under subsection (1A) ceases to be appointed for any reason, the developer must — 5

(a) without delay appoint another qualified person in accordance with subsection (1A); and

(b) within 7 days after the appointment under paragraph (a), notify the competent authority of that appointment. 10

(1C) A developer who, without reasonable excuse, fails to comply with subsection (1B)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.”.

Amendment of section 14A

7. Section 14A of the Planning Act is amended — 15

(a) by deleting the words “, in accordance with rules made under section 61, an application for written permission is required to be accompanied by any certificate or declaration” in subsection (1) and substituting the words “an application for written permission is required under this Act to be accompanied by any declaration”; 20

(b) by deleting the words “basis of the certificate or” in subsection (1) and substituting the words “basis of the”; 20

(c) by deleting subsection (5); and

(d) by deleting the words “certificate or” in the section heading. 25

Amendment of section 15

8. Section 15 of the Planning Act is amended —

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

5 “(aa) that where the permission is granted for a specified period, any building or works authorised by the permission must be removed, or the use of the land so authorised must be discontinued, at the end of the specified period, and that any works for the reinstatement of the land at the end of that period must be carried out;”;

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

15 “(c) restrictions or requirements specified by the competent authority as to the height, design, appearance and siting of any building, including the use of lighting in the design and appearance of the building;”;

20 (c) by deleting paragraph (e) of subsection (1) and substituting the following paragraph:

25 “(e) that a banker’s guarantee must be issued to, or deposits must be placed with, the competent authority or such statutory authority as the competent authority may specify to secure compliance with the requirements of the competent authority or that statutory authority;”;

30 (d) by inserting, immediately after paragraph (f) of subsection (1), the following paragraph:

“(g) that such areas within the land as the competent authority considers necessary are to be provided, maintained and kept open and accessible for use by the public as

paths or open spaces, without any compensation;”;

(e) by deleting the words “maintained, kept open and accessible for use by the public or any occupier or other user of the land and any other land adjoining or in the locality” in subsection (1)(h), and substituting the words “maintained and kept open and accessible for use by the public or any occupier or other user of the land and any other land adjoining or in the locality, without any compensation”;

(f) by deleting the word “and” at the end of paragraph (h) of subsection (1), and by inserting immediately thereafter the following paragraph:

“(ha) that a knock-out panel must be provided at any part of the land, and must be removed when the competent authority requires the owner or occupier of the land to do so, so as to allow the land to be connected to any adjoining land or building;”;

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

“(1A) To avoid doubt, the common law on dedication of land does not apply in relation to any area or connecting structure mentioned in subsection (1)(g) or (h) to create any interest in land.”;

(h) by deleting the words “a qualified person that the plans submitted to the Commissioner of Building Control for the application with regard to such works” in subsection (2)(c) and substituting the words “the qualified person who submitted the plans of the building works to the Commissioner of Building Control for the application that those plans”;

(i) by deleting subsections (3), (3A) and (3B) and substituting the following subsections:

“**(3)** Where a condition is imposed under section 14(4) on the grant of planning permission or conservation permission in respect of any land —

(a) every person carrying out any development of the land;

(b) every person carrying out any works within a conservation area on the land; and

(c) every owner or occupier of the land,

must each comply with the condition, whether or not the person, owner or occupier applied for the permission or owned or occupied the land at the time the permission was granted.

(3A) A person shall be guilty of an offence if the person —

(a) is required by subsection (3) to comply with a condition imposed on a planning permission or conservation permission;

(b) carries out or permits the carrying out of any development of land, any works within a conservation area or any other activity in contravention of that condition; and

(c) knew or ought reasonably to have known, when carrying out, or permitting the carrying out, of the development, works or activity, that the development, works or activity is in contravention of the condition.

(3B) Subject to subsections (3C) and (3D), any person found guilty of an offence under subsection (3A) shall be liable on conviction —

(a) to a fine not exceeding \$200,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction; or 5

(b) if the person is a repeat offender, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 10

(3C) Where a contravention of subsection (3) by a person includes the demolition of a building (or part of a building) in a conservation area, the person convicted of an offence under subsection (3A) for the contravention shall, in lieu of the punishment prescribed in subsection (3B), be liable — 15

(a) to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 12 months or to both; and 20

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction. 25

(3D) Where a contravention of subsection (3) by a person involves the use of any land or building to provide dormitory accommodation, the person convicted of an offence under subsection (3A) for the contravention shall, in lieu of the punishment prescribed in subsection (3B), be liable — 30

(a) to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 12 months or to both; and 35

(b) in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.”;

5 (j) by deleting subsection (5) and substituting the following subsection:

“(5) In this section —

“connecting structure” means any underpass, subway, bridge or other structure, whether under or above ground or at grade and whether for pedestrians or vehicles, linking or connecting —

(a) a building with another building;

15 (b) a building with any public facility, space or street; or

(c) a public facility, space or street with another public facility, space or street,

and includes escalators, travellers and other facilities but does not include a railway tunnel or any part of it;

20 “repeat offender” means a person who is convicted, or found guilty, of an offence (other than a continuing offence) under subsection (3A) and has (whether before, on or after the date of commencement of section 8(i) of the Planning (Amendment) Act 2017) been convicted or found guilty on at least one other earlier occasion of —

(a) an offence under subsection (3A); or

30 (b) an offence under subsection (3) as in force immediately before that date.”; and

- (k) by deleting the word “Conditional” in the section heading and substituting the words “Conditions for planning permission or conservation”.

New section 19A

9. The Planning Act is amended by inserting, immediately after section 19, the following section: 5

“Developer must appoint qualified person to supervise development or works

19A.—(1) Unless otherwise prescribed, a developer carrying out — 10

(a) any development of any land must, before the development starts, appoint an architect or engineer to carry out the duties under section 24B; or

(b) any works within a conservation area must, before the works start, appoint an architect to carry out the duties under section 24B. 15

(2) Where any qualified person appointed under subsection (1) becomes unwilling to act or unable, whether by reason of the termination of the qualified person’s appointment or for any other reason, to carry out the qualified person’s duties under this Act, the developer must — 20

(a) without delay appoint another qualified person in accordance with subsection (1); and

(b) within 7 days after the appointment under paragraph (a), notify the competent authority of that appointment. 25

(3) Any developer who, without reasonable excuse, fails to comply with any requirement in subsection (1)(a) or (b) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; and 30

(b) in respect of a continuing contravention, to an additional fine not exceeding \$1,000 for each day or

part of a day the developer fails to comply with the requirement,

and if the failure continues after the conviction, the developer shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part of a day during which the failure to comply continues after conviction.”.

New section 20A

10. The Planning Act is amended by inserting, immediately after section 20, the following section:

“Power to require as-built plans

20A.—(1) Subject to subsection (2), the competent authority may, in respect of any development of any land or any works within a conservation area authorised in a planning permission or conservation permission, require a developer to submit, in such form as the competent authority may require —

- (a) as-built plans of the development or works prepared by a land surveyor in accordance with the requirements specified by the competent authority;
- (b) a declaration by the land surveyor who prepared the as-built plans that the as-built plans have been prepared by the land surveyor in accordance with the requirements mentioned in paragraph (a); and
- (c) such other documents as the Minister may prescribe.

(2) Subsection (1) applies at any time after the commencement of the development or works but before —

- (a) the Commissioner of Building Control grants a temporary occupation permit or a certificate of statutory completion under the Building Control Act (Cap. 29), whichever is earlier, for every building authorised in the relevant permission; or
- (b) where a temporary occupation permit or a certificate of statutory completion is not required under the

Building Control Act, the development or works is complete.”.

Amendment of section 21

11. Section 21(6) of the Planning Act is amended by deleting the words “The Minister” and substituting the words “Despite section 12, the Minister”.

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Amendment of section 22

12. Section 22 of the Planning Act is amended —

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

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“(1A) Where the competent authority cancels a planning permission or conservation permission under section 15(4), any person aggrieved by that decision may appeal to the Minister against that decision.”;

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

“(2A) An appeal does not affect the enforceability of any condition imposed or prevent the taking of any action in respect of any unauthorised development of any land or any unauthorised works within a conservation area unless otherwise directed by the Minister in any particular case.”; and

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(c) by deleting the words “in addition to the conditions allowed by the Minister” in subsection (5) and substituting the words “whether the Minister dismisses or allows the appeal unconditionally or subject to conditions”.

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New section 22A

13. The Planning Act is amended by inserting, immediately after section 22, the following section:

“Designation of persons to hear appeals

5 **22A.** The Minister may designate to hear and determine, in his place, any appeals or a specific appeal under section 22, 29 or 39(7) —

10 (a) any Minister of State or Senior Minister of State, or Parliamentary Secretary or Senior Parliamentary Secretary, for his Ministry; or

 (b) any public officer in his Ministry not subordinate to the competent authority whose decision is appealed against,

15 and any reference in that section to the Minister includes a reference to the Minister of State or Senior Minister of State, Parliamentary Secretary or Senior Parliamentary Secretary or public officer so designated for that appeal.”.

New Part IIIA

20 **14.** The Planning Act is amended by inserting, immediately after section 24, the following Part:

“PART IIIA

QUALIFIED PERSONS

Duties of qualified person appointed under section 13

25 **24A.**—(1) Every qualified person who is appointed under section 13 in respect of an application for planning permission or conservation permission must —

30 (a) prepare the plans of the development or works within a conservation area required, by rules made under section 61, to be submitted with the application for planning permission or conservation permission and take all reasonable steps and exercise due diligence to

ensure that the plans are prepared in accordance with —

- (i) the provisions of this Act;
 - (ii) where applicable, any conditions and requirements imposed by the competent authority in any outline permission or provisional permission for the development or works, or existing written permission, granted in respect of the land; and 5
 - (iii) all relevant guidelines of the competent authority; 10
- (b) notify the competent authority of any contravention of this Act or non-compliance with any condition or requirement mentioned in paragraph (a)(ii) or (iii) that the qualified person knows or ought reasonably to know about; 15
- (c) submit to the competent authority a declaration that the qualified person has prepared the plans and that the plans are prepared in accordance with paragraph (a); and 20
- (d) supply a copy of every plan of the development or works approved by the competent authority to the qualified person appointed under section 19A to supervise the development or works. 25

(2) If any qualified person who is appointed under section 13 becomes unwilling or unable, whether by reason of the termination of the qualified person's appointment or for any other reason, to carry out the qualified person's duties under this Act, the qualified person must, within 14 days after ceasing to carry out his duties, notify the competent authority of that fact. 30

(3) A qualified person —

- (a) who fails to comply with the requirement mentioned in subsection (1)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

\$200,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) who fails to comply with the requirement mentioned in subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both,

and to an additional fine not exceeding \$1,000 for each day or part of a day the qualified person fails to comply with the requirement and, if the failure to comply continues after conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part of a day during which the failure to comply continues after conviction.

(4) In any prosecution for an offence under subsection (3) for failing to comply with the requirement to notify a contravention or non-compliance mentioned in subsection (1)(b), it is a defence for the qualified person charged to prove to the satisfaction of the court that the qualified person did not know and could not reasonably have discovered the contravention or non-compliance.

(5) A qualified person who fails to comply with subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Duties of qualified persons appointed to supervise development or works

24B.—(1) Every qualified person who is appointed under section 19A to supervise the carrying out of any development or works must —

(a) take all reasonable steps and exercise due diligence in supervising and inspecting the development or works, as the case may be, to ensure that the development or works are carried out in accordance with —

(i) the provisions of this Act;

- (ii) the conditions and requirements imposed by the competent authority in the planning permission or conservation permission, as the case may be; and
 - (iii) the relevant plans approved by the competent authority in the grant of planning permission for the development or conservation permission for the works, as the case may be; 5
 - (b) notify the competent authority of any contravention of or non-compliance with any provision, condition, requirement or plans mentioned in paragraph (a)(i), (ii) or (iii); 10
 - (c) take all reasonable steps to immediately stop or cease the contravention or non-compliance mentioned in paragraph (b); and 15
 - (d) submit to the competent authority such reports and declarations as may be required by the competent authority (other than a declaration required under this section).
- (2) A qualified person — 20
- (a) who fails to comply with the requirement mentioned in subsection (1)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years or to both; or 25
 - (b) who fails to comply with the requirement mentioned in subsection (1)(b), (c) or (d) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both. 30
- (3) In any prosecution for an offence under subsection (2)(b) for failing to notify or stop the contravention or non-compliance mentioned in subsection (1)(b) or (c), it is a defence for the qualified person charged to prove to the satisfaction of the court

that the qualified person did not know and could not reasonably have discovered the contravention or non-compliance.

5 (4) A qualified person appointed under section 19A must, within such period as the competent authority may specify in the planning permission or conservation permission or within such extended time as the competent authority may give in writing, submit the qualified person's declaration to the competent authority that, to the best of the qualified person's knowledge and belief, the development or works are carried out in accordance with —

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- (a) the provisions of this Act;
 - (b) the conditions and requirements imposed by the competent authority in the planning permission or conservation permission, as the case may be; and
 - 15 (c) the relevant plans approved by the competent authority in the grant of planning permission for the development or conservation permission for the works, as the case may be.

20 (5) Where any qualified person appointed under section 19A becomes unwilling to act or unable, whether by reason of the termination of the qualified person's appointment or for any other reason, to carry out the qualified person's duties under this Act, the qualified person must, within 14 days after ceasing to carry out the qualified person's duties —

- 25 (a) notify the competent authority of that fact; and
- (b) submit the qualified person's declaration to the competent authority that, to the best of the qualified person's knowledge and belief, the development or works carried out during the period of the qualified person's appointment are in accordance with —
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- (i) the provisions of this Act;
 - (ii) the conditions and requirements imposed by the competent authority in the planning permission

or conservation permission, as the case may be;
and

- (iii) the relevant plans approved by the competent authority in the grant of planning permission for the development or conservation permission for the works, as the case may be.

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(6) A qualified person —

- (a) who fails to comply with the requirement mentioned in subsection (4) or (5)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both; or

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- (b) who fails to comply with the requirement mentioned in subsection (5)(a) 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 6 months or to both.

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(7) In relation to a continuing failure to comply with the requirement mentioned in subsection (1), (4) or (5) —

- (a) the qualified person convicted of an offence under subsection (2) or (6), as the case may be, for that failure shall be liable to an additional fine not exceeding \$1,000 for each day or part of a day the qualified person fails to comply with the requirement mentioned in subsection (1), (4) or (5), as the case may be; and

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- (b) if the failure to comply continues after the conviction, the qualified person shall be guilty of a further offence and shall be liable on conviction of this further offence to a further fine not exceeding \$2,000 for every day or part of a day during which the failure to comply continues after conviction.

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False declarations

5 **24C.**—(1) A qualified person who makes any declaration required under this Act that is false or misleading in any material particular knowing that, or with reckless disregard as to whether, the declaration is false or misleading in any material particular shall be guilty of an offence and shall be liable on conviction —

 (a) to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 6 months or to both; or

10 (b) if the qualified person is a repeat offender, to a fine not exceeding \$60,000 or to imprisonment for a term not exceeding 12 months or to both.

 (2) A qualified person who negligently makes any declaration required under this Act that is false or misleading in any material particular shall be guilty of an offence and shall be liable on conviction —

15 (a) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 3 months or to both; or

20 (b) if the qualified person is a repeat offender, to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 6 months or to both.

 (3) In this section, a qualified person is a repeat offender if the qualified person who is convicted, or found guilty, of an offence under subsection (1) or (2) has (whether before, on or after the date of commencement of section 7(c) or 8(i) of the Planning (Amendment) Act 2017) been convicted or found guilty on at least one other earlier occasion of —

25 (a) an offence under subsection (1) or (2);

30 (b) an offence under section 14A(5) as in force immediately before the date of commencement of section 7(c) of the Planning (Amendment) Act 2017; or

 (c) an offence under section 15(3A) as in force immediately before the date of commencement of section 8(i) of the Planning (Amendment) Act 2017.”.

New section 26A

15. The Planning Act is amended by inserting, immediately after section 26, the following section:

“Power to examine and secure attendance, etc.

26A.—(1) Where it appears to the competent authority that there may have been a breach of planning control in respect of any land, the competent authority may do all or any of the following: 5

- (a) examine orally any person who appears to be acquainted with matters related to the offence; 10
- (b) require by notice in writing the attendance before the competent authority of any person within Singapore who, from information given or otherwise, appears to be acquainted with matters related to the offence;
- (c) require any person to furnish any information or produce any book or document, or any copy thereof, in the possession of that person and, without payment, inspect, keep, copy or take extracts from that book, document or copy. 15

(2) A person is not excused from making an oral statement under subsection (1)(a) on the ground that the statement might tend to incriminate the person but, where the person claims before making the statement that the statement might tend to incriminate the person, that statement is not admissible in evidence against that person in criminal proceedings other than proceedings for an offence under subsection (4)(c) or (d). 20 25

(3) A statement made by any person examined under this section must —

- (a) be in writing;
- (b) be read over to the person; 30
- (c) if the person does not understand English, be interpreted to the person in a language that the person understands; and

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

(4) Any person who —

(a) neglects or refuses to furnish any information or produce any book or document, or any copy thereof, required under this section;

(b) neglects or refuses to attend before the competent authority as required under this section;

(c) furnishes any information or produces any book or document, or any copy thereof, required under this section that is false in a material particular and that the person knows to be false or does not believe to be true; or

(d) by the intentional suppression of any material fact, furnishes information required under this section that is misleading,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 27

16. Section 27 of the Planning Act is amended —

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

“(1A) If entry to any land for the purposes of subsection (1)(a) cannot be obtained, the competent authority may —

(a) where the competent authority has reasonable cause to believe that evidence of a contravention of this Act can be found on the land;

(b) after declaring his office and producing his identification card where a demand is made for him to do so;

(c) with such force as is necessary to obtain entry; and

(d) with such assistants and workmen as are necessary,

break open any outer or inner door or window on the land, forcibly enter the land and every part of the land, or remove by force any obstruction to such entry.”; and

(b) by inserting, immediately after the word “photographs” in subsection (2), the words “, or audio or video recordings”.

Amendment of section 36

17. Section 36(3) of the Planning Act is amended —

(a) by deleting the word “or” at the end of paragraph (a); and

(b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(c) the development relates to one single dwelling-house on the land and the proposed development is to develop the land for a use other than as land with only one single dwelling-house on it.”.

Amendment of section 37

18. Section 37 of the Planning Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Subject to subsection (2A), the liability of the person on whom the development charge is levied continues despite any change in ownership of the land.

(2A) Where a person’s liability to pay development charge is deferred under the rules made under section 40(1)(d), the person may obtain the Minister’s written approval for the person’s liability to end upon a change in ownership of the land.”.

Repeal and re-enactment of section 57

19. Section 57 of the Planning Act is repealed and the following section substituted therefor:

“Composition of offences

5 **57.**—(1) The competent authority may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

10 (a) one half of the amount of the maximum fine that is prescribed for the offence;

 (b) \$5,000.

(2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence.

15 (3) All sums collected under this section are to be paid into the Consolidated Fund.”.

Amendment of section 61

20. Section 61(2) of the Planning Act is amended —

20 (a) by inserting, immediately after paragraph (h), the following paragraphs:

25 “(ha) the types of applications for planning permission or conservation permission that are not subject to the requirement under section 13(1A) to appoint a qualified person or for which a different type of qualified person may be appointed;

30 (hb) the types of development or works within a conservation area that are not subject to the requirement under section 19A(1) to appoint a qualified person or for which a different type of qualified person may be appointed;”;

- (b) by deleting the words “certificates or” in paragraph (m);
- (c) by deleting the words “certificate or declaration for the purpose of the requirement referred to in paragraph (m)” in paragraph (n) and substituting the words “declaration required under this Act”; 5
- (d) by inserting, immediately after paragraph (n), the following paragraph:
- “(na) the circumstances under which an individual is deemed not to be a qualified person for the purposes of section 13 or 19A;”; and 10
- (e) by deleting the words “certificate or” in paragraphs (o), (p) and (q).

Amendment of First Schedule

21. The First Schedule to the Planning Act is amended by deleting paragraphs 1, 2 and 3 and substituting the following items: 15

- “1. An architect
2. An engineer
3. A land surveyor”.

New Fourth Schedule

22. The Planning Act is amended by inserting, immediately after the Third Schedule, the following Schedule: 20

“FOURTH SCHEDULE

Section 3(3)(ca)

USE OF DWELLING-HOUSE CONSTITUTING DEVELOPMENT 25

1. Use of a dwelling-house to provide dormitory accommodation.
2. Use of a dwelling-house to provide short-term accommodation, where the dwelling-house or any part of it is occupied by the same person for a period of less than 6 consecutive months and the short-term accommodation is provided (with or without other services) in return for the payment of rent or other form of consideration, whether or not the relationship of landlord and tenant is thereby created.”. 30

Validation

23.—(1) Every condition of a planning permission or conservation permission that was imposed before the date of commencement of section 8 —

5 (a) requiring the removal of any building or works authorised by the permission, or the discontinuance of the use of the land so authorised, at the end of a specified period, and the carrying out of any works for the reinstatement of the land at the end of that period;

10 (b) in relation to the requirements relating to the height, design, appearance and siting of buildings;

 (c) requiring part of the land to be provided, maintained and kept open and accessible to the public for such period specified by the competent authority;

15 (d) requiring a connecting structure linking or connecting a public facility, space or street with another public facility, space or street to be provided, maintained and kept open and accessible to the public for such period specified by the competent authority; or

20 (e) requiring the provision and removal of a knock-out panel, is, and is taken to have been, by force of this section, validly imposed under the Planning Act; and no legal proceedings lie or may be instituted on or after 9 January 2017 in any court of law in respect of the imposition of the condition by the competent authority.

25 (2) Despite subsection (1), any breach of a condition mentioned in that subsection before the date of commencement of section 8 is not an offence under section 15(3) of the Planning Act.

Saving and transitional provision

30 **24.** 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.

EXPLANATORY STATEMENT

This Bill seeks to amend the Planning Act (Cap. 232) for the following main purposes:

- (a) to enhance enforcement powers and introduce a presumption for permitting unauthorised development or works within a conservation area;
- (b) to require developers to appoint qualified persons to prepare plans for an application for planning or conservation permission and as-built plans, and to supervise the development or works;
- (c) to expand the type of planning conditions the competent authority may impose when granting planning permission;
- (d) other amendments for the better administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert definitions for new terms that are used in the amendments. The term “dormitory accommodation” is defined to mean accommodation by 7 or more individuals, or such other number that the Minister specifies in a notification in the *Gazette*, but not including accommodation for a family. It also provides that “breach of planning control” includes the breach of a condition imposed in an authorisation notice under section 21(6).

Clause 3 amends section 3 to insert a new subsection (3)(ca) to deem the use of a dwelling-house for a purpose specified in the Fourth Schedule as development, whether or not the use for that purpose commenced before, on or after the commencement of the amendment. This will mean that a person currently using a dwelling-house for a purpose specified in the new Fourth Schedule (that is, the provision of dormitory accommodation or short-term accommodation) will, from the operative date of this amendment, be deemed to have carried out development for which the failure to obtain written permission is an offence. Under section 60A, the Minister may amend the Fourth Schedule by an order in the *Gazette*.

Clause 3 also amends section 3(3) to provide that where a planning permission or conservation permission is cancelled or has lapsed, or where a condition imposed in an authorisation imposed under section 21(6) is breached, the continued use of the building or land in question for any purpose constitutes development.

Clause 4 amends section 12 to make it an offence for a person to permit the carrying out of development, works within a conservation area or subdivision of land without the relevant written permission. The maximum penalty for unauthorised development, works or subdivision now includes a custodial sentence in the case of a second or subsequent offence, and where the unauthorised development or works involves the demolition of a building in a conservation area or the use of any land or building to provide dormitory accommodation. A conviction for a contravention of section 12(1), (2) or (3) of the Planning Act before the commencement date of clause 4(b), is treated as a first conviction for the purposes of the amended section 12(4).

Clause 5 inserts new sections 12A and 12B.

The new section 12A provides that an owner of any land is presumed to have permitted unauthorised development or works within a conservation area if the unauthorised development or works were carried out by the owner's tenant or contractor, unless the owner proves that reasonable precautions were taken to prevent the unauthorised development or works or that the exercise of due diligence could not have prevented the unauthorised development or works.

The new section 12B allows the competent authority to give preliminary advice for an application for written permission.

Clause 6 amends section 13 to insert an obligation for an applicant for planning permission or conservation permission to appoint a qualified person to carry out the duties specified in the new section 24A, which include the preparation of the plans for the development or works. The Minister may by regulations waive classes of applications from this new requirement. If the qualified person ceases to be appointed, the developer must appoint a replacement without delay and inform the competent authority within 7 days after the appointment.

Clause 7 amends section 14A to apply the section to any declaration required under the Act, including the declaration required under the new section 24A(1)(c). The clause also deletes subsection (5), which is the offence provision for a false declaration by a qualified person. All such provisions will be consolidated under the new section 24C. Subsection (1) and the section heading are also amended to refer to "declaration" instead of "certificate or declaration" for consistency.

Clause 8 amends section 15, which relates to conditions imposed in a planning or conservation permission, for the following main purposes:

- (a) to allow the competent authority to require banker's guarantees and provide that deposits may be placed with, and banker's guarantees issued to, the competent authority;
- (b) to allow the competent authority to impose conditions relating to the requirements for the height, design, appearance and siting of buildings, provision of public areas and knock-out panels, and where permission

is granted for a specified period, to require the use and physical state of the land to be restored at the end of the specified period;

- (c) to provide that the provision of connecting structures or public areas required in a planning permission or conservation permission is without compensation and to exclude the operation of the common law on dedication of land in such cases;
- (d) to provide that “connecting structure” includes a structure connecting public facilities and spaces, such as a structure connecting a building with a Mass Rapid Transit station, but does not include the Mass Rapid Transit station or its tunnels;
- (e) to provide that conditions imposed in a planning permission or conservation permission also apply to subsequent owners and occupiers of the land;
- (f) to require the qualified person who submits plans under the Building Control Act (Cap. 29) to declare that the plans submitted under that Act are in accordance with the plans approved by the competent authority in the grant of conservation permission;
- (g) to enhance the penalty for the breach of a condition in a planning permission or conservation permission in the same manner as the penalty applicable to unauthorised development, works or subdivision under section 12.

Clause 9 inserts a new section 19A to require a developer to appoint a qualified person to supervise the development or works. The Minister may by regulations waive classes of developments or works from this new requirement. If the qualified person ceases to be appointed, the developer must appoint a replacement without delay and inform the competent authority within 7 days after the appointment.

Clause 10 introduces a new section 20A, which empowers the competent authority to require the developer to submit as-built plans prepared by a land surveyor.

Clause 11 amends section 21(6) to clarify that where development, works within a conservation area, or subdivision is authorised under this section, written permission is not required.

Clause 12 amends section 22 to provide that any aggrieved person may appeal to the Minister against the competent authority’s decision to cancel a planning permission or conservation permission. The amendment also provides that an appeal does not affect the enforceability of a condition or prevent the enforcement against unauthorised development or works, and that the competent authority may impose conditions on a written permission even if the Minister allows an appeal unconditionally, if the conditions imposed are not inconsistent with the Minister’s decision.

Clause 13 inserts a new section 22A to allow the Minister to delegate the hearing of appeals under section 22, 29 or 39(7) to a Minister of State or Senior Minister of State, Parliamentary Secretary or Senior Parliamentary Secretary or public officer in his or her Ministry.

Clause 14 inserts a new Part IIIA to provide for the duties of qualified persons. The new Part IIIA comprises sections 24A, 24B and 24C.

The new section 24A sets out the duties of a qualified person appointed under section 13. The duties are to prepare the plans to be submitted with an application for planning permission or conservation permission, to notify the competent authority of any contravention of the Act or breach of any requirement or planning condition, to submit a declaration that the qualified person has prepared the plans and has done so in accordance with the requirements set out in the section, and to supply copies of the plans to the qualified person appointed to supervise the development or works.

The new section 24B sets out the duties of a qualified person appointed under section 19A to supervise development or works in a conservation area. In addition to supervising the development or works, the qualified person also has to notify the competent authority of any contravention of the Act or breach of any requirement or planning conditions, to take steps to stop the contravention or breach, and to submit such reports and declarations as the competent authority may require.

The new section 24C makes it an offence for a qualified person to knowingly, recklessly or negligently make a false declaration required under the Act.

Clause 15 inserts a new section 26A, which empowers the competent authority to examine witnesses and to require their attendance. The competent authority may also require any person to furnish any information or produce any document in that person's possession. Any person examined under the section must state truly what he or she knows of the matters related to the offence, but any statement made which the person claims might tend to incriminate him or her may only be admissible in proceedings under section 26A(4)(c) or (d).

Clause 16 amends section 27 to include a power for the competent authority (together with any of the competent authority's assistants or workmen) to effect forcible entry to any land to ascertain whether there is or has been a contravention of any provision of the Act, and to allow the competent authority to take audio or video recordings of the land and any property or material on it. The power to effect forcible entry may only be exercised if certain requirements are satisfied.

Clause 17 amends section 36 to insert a new subsection (3)(c). Under section 36(1)(c), Development Baseline includes the value of any authorised development for which development charge is exempted. The new subsection (3)(c) provides that the value of the exempted development is to be disregarded for the purposes of determining Development Baseline if the exempted development relates to one single dwelling-house on the land and there is a

proposal to develop the land for use other than as land with only one single dwelling-house on it.

Clause 18 amends section 37 such that the general rule that a person's liability to pay development charge continues despite a change in ownership of the land does not apply to a person (e.g. a charity) whose liability to pay development charge is deferred and who has obtained the Minister's written approval for the person's liability to end upon the change in ownership of the land.

Clause 19 repeals and re-enacts section 57 to allow the competent authority to, for the composition of an offence, collect either one half of the maximum fine prescribed for the offence or up to \$5,000 (increased from \$1,000), whichever is lower. The re-enacted section 57 also provides that composition sums collected under the section are to be paid into the Consolidated Fund.

Clause 20 amends section 61 to allow the Minister to make rules consequential to the amendments. The clause also amends subsection (2)(o), (p) and (q) to refer to "declaration" instead of "certificate or declaration" for consistency.

Clause 21 makes consequential amendments to the First Schedule because of the new defined terms.

Clause 22 inserts a new Fourth Schedule, which is mentioned in the new section 3(3)(ca). The Fourth Schedule may, under section 60A, be amended by the Minister by an order in the *Gazette*.

Clause 23 validates certain conditions of a planning permission or conservation permission imposed before the commencement of clause 8. However, the breach of any such condition before the commencement date is not an offence.

Clause 24 is a saving and transitional provision that empowers the Minister to make regulations to prescribe additional provisions of a saving or transitional nature for a period of 2 years after the date of commencement of any provision of the Bill.

National Archives of Singapore

EXPENDITURE OF PUBLIC MONEY

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