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ACTS SUPPLEMENT

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The following Act was passed by Parliament on 14th February 2012 and assented to by the President on 20th March 2012:—

REPUBLIC OF SINGAPORE

No. 4 of 2012.

I assent.

TONY TAN KENG YAM,
President.
20th March 2012.

(LS)

An Act to amend the Evidence Act (Chapter 97 of the 1997 Revised Edition) to reform the law of evidence in relation to hearsay evidence in civil and criminal proceedings, evidence of electronic output, expert opinion evidence and legal professional privilege, and matters related thereto, and to make consequential amendments to the Criminal Procedure Code 2010 (Act 15 of 2010) and other written laws.

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 may be cited as the Evidence (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 3

2. Section 3 of the Evidence Act is amended —

(a) by deleting the definitions of “computer” and “computer output” or “output” in subsection (1) and substituting the following definition:

“copy of a document” includes —

- (a) in the case of a document falling within paragraph (d) but not paragraph (e) of the definition of “document”, a transcript of the sounds or other data embodied in it;
- (b) in the case of a document falling within paragraph (e) but not paragraph (d) of that definition, a reproduction or still reproduction of the image or images embodied in it, whether enlarged or not;
- (c) in the case of a document falling within paragraphs (d) and (e) of that definition, such a transcript together with such a still reproduction; and
- (d) in the case of a document not falling within paragraph (e) of that definition of which a visual image is embodied in a document falling within that paragraph, a reproduction of that image, whether enlarged or not,

and any reference to a copy of the material part of a document must be construed accordingly;”;

(b) by deleting the definition of “document” (including the *Illustrations*) in subsection (1) and substituting the following definitions:

“document” includes, in addition to a document in writing —

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means whatsoever;
- (d) any disc, tape, sound-track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;

“electronic record” means a record generated, communicated, received or stored by electronic, magnetic, optical or other means in an information system or transmitted from one information system to another;” and

(c) by inserting, immediately after subsection (5), the following subsections:

“(6) For the purposes of sections 23, 128, 130 and 131, a reference to “advocate or solicitor” therein shall include a reference to any public officer in the Attorney-General’s Chambers when he acts as an advocate or a solicitor.

(7) For the purposes of sections 23, 128A, 130 and 131, a “legal counsel” means —

- (a) a person (by whatever name called) who is an employee of an entity employed to undertake the provision of legal advice or assistance in connection with the application of the law or any form of resolution of legal disputes; or
- (b) a public officer in the Singapore Legal Service —
 - (i) working in a ministry or department of the Government or an Organ of State as legal adviser to that ministry or department or Organ of State; or
 - (ii) seconded as legal adviser to any statutory body established or constituted by or under a public Act for a public function.”.

Amendment of section 9

3. Section 9 of the Evidence Act is amended by inserting, immediately after *Illustration (f)*, the following *Illustration*:

“(g) *A* seeks to adduce evidence against *B* in the form of an electronic record. The method and manner in which the electronic record was (properly or improperly) generated, communicated, received or stored (by *A* or *B*), the reliability of the devices and the circumstances in which the devices were (properly or improperly) used or operated to generate, communicate, receive or store the electronic record, may be relevant facts (if the contents are relevant) as authenticating the electronic record and therefore as explaining or introducing the electronic record, or identifying it as the relevant electronic record to support a finding that the record is, or is not, what its proponent *A* claims.”.

Repeal and re-enactment of section 23

4. Section 23 of the Evidence Act is repealed and the following section substituted therefor:

“Admissions in civil cases when relevant

23.—(1) In civil cases, no admission is relevant if it is made —

- (a) upon an express condition that evidence of it is not to be given; or
- (b) upon circumstances from which the court can infer that the parties agreed together that evidence of it should not be given.

(2) Nothing in subsection (1) shall be taken —

- (a) to exempt any advocate or solicitor from giving evidence of any matter of which he may be compelled to give evidence under section 128; or
- (b) to exempt any legal counsel in an entity from giving evidence of any matter of which he may be compelled to give evidence under section 128A.”.

Amendment of section 32

5. Section 32 of the Evidence Act is amended —

- (a) by deleting the words “Statements, written or verbal, of relevant facts made by a person who is dead or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the court unreasonable,” and substituting the words “Subject to subsections (2) and (3), statements of relevant facts made by a person (whether orally, in a document or otherwise),”;
- (b) by deleting paragraph (b) (including the paragraph heading) and substituting the following paragraph: