

Corruption (Confiscation of Benefits) Bill

Table of Contents

Bill No: 7/1988

Read the first time: 15th March 1988

Long Title

Enacting Formula

Part I PRELIMINARY

1 Short title and commencement

2 Interpretation

3 Application

Part II CONFISCATION OF BENEFITS OF CORRUPTION

4 Confiscation orders

5 Assessing the benefits of corruption

6 Statements relating to corruption

7 Amount to be recovered under confiscation order

8 Definition of principal terms used

Part III ENFORCEMENT, ETC., OF CONFISCATION ORDERS

9 Application of procedure for enforcing fines

10 Cases in which restraint orders and charging orders may be made

11 Restraint orders

12 Charging orders in respect of land, securities, etc.

13 Charging orders: supplementary provisions

14 Realisation of property

15 Application of proceeds of realisation and other sums

16 Exercise of powers by High Court or receiver

17 Variation of confiscation orders

18 Bankruptcy of defendant, etc.

19 Winding up of company holding realisable property

20 Receivers: supplementary provisions

Part IV APPLICATION TO ABSCONDED PERSONS

21 Absconded persons

22 Confiscation order where person has absconded

Explanatory Statement

Expenditure of Public Money

Corruption (Confiscation of Benefits) Bill

Bill No. 7/1988

Read the first time on 15th March 1988.

An Act to provide for the confiscation of benefits derived from corruption and for purposes connected therewith.

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

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Corruption (Confiscation of Benefits) Act 1988 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“corruption offence” means an offence under the Prevention of Corruption Act [Cap. 241] or under section 161, 162, 163, 164 or 165 of the Penal Code [Cap. 224] or any conspiracy to commit, any attempt to commit or any abetment of such an offence;

“charging order” means an order made under section 12(1);

“confiscation order” means an order made under section 4;

“dealing with property” is to be construed in accordance with section 11(7);

“defendant” means a person against whom proceedings have been instituted for a corruption offence or offences whether or not he has been convicted thereof;

“gift caught by this Act” is to be construed in accordance with section 8(8);

“interest”, in relation to property, includes right;

“making a gift” is to be construed in accordance with section 8(9);

“officer of the Corrupt Practices Investigation Bureau” means the Director of the Bureau appointed under section 3(1) of the Prevention of Corruption Act, the Deputy Director and any assistant director and special investigator of the Bureau appointed under section 3(2) of that Act;

“property” means money and all other property, movable or immovable, including things in action and other intangible or incorporeal property;

“realisable property” has the meaning given by section 8(1);

“restraint order” means an order made under section 11(1);

“value of gift” is to be construed in accordance with section 8;

“value of property” is to be construed in accordance with section 8(4).

(2) For the purposes of this Act —

- (a) property is held by any person if he holds any interest in it;
- (b) references to property held by a person include a reference to property vested in his trustee in bankruptcy or liquidator;
- (c) references to an interest held by a person beneficially in property include a reference to an interest which would be held by him beneficially if the property were not so vested in his trustee in bankruptcy or liquidator; and
- (d) property is transferred by one person to another if the first person transfers or grants to the other any interest in the property.

(3) For the purposes of this Act —

- (a) proceedings for an offence are instituted in Singapore when a person is produced and charged in court with the offence;
- (b) proceedings in Singapore for a corruption offence are concluded on the occurrence of one of the following events:
 - (i) the discontinuance of the proceedings;
 - (ii) the acquittal of the defendant;
 - (iii) the quashing of his conviction for the offence;
 - (iv) the grant of the President’s pardon in respect of his conviction for the offence;
 - (v) the court sentencing or otherwise dealing with him in respect of his conviction for the offence without having made a confiscation order; and
 - (vi) the satisfaction of a confiscation order made in the proceedings (whether by payment of the amount due under the order or by the defendant serving imprisonment in default).

(4) For the purposes of this Act, an order is subject to appeal so long as an appeal or

further appeal is pending against the order or (if it was made on a conviction) against the conviction; and for this purpose an appeal or further appeal shall be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing the appeal.

Application

3.—(1) This Act shall apply to any corruption offence committed before the commencement of this Act except that nothing in this Act imposes any duty or confers any power on any court in or in connection with proceedings against a person for a corruption offence in respect of which he has been sentenced by a court before the commencement of this Act.

(2) This Act shall apply to any property, whether it is situated in Singapore or elsewhere.

PART II

CONFISCATION OF BENEFITS OF CORRUPTION

Confiscation orders

4.—(1) Where a defendant is convicted of one or more corruption offences, the court shall, on the application of the Public Prosecutor, make a confiscation order against the defendant in respect of benefits derived by him from corruption if the court is satisfied that such benefits have been so derived.

(2) If the court is satisfied that benefits have been derived by the defendant from corruption, the court shall, before sentencing or otherwise dealing with him in respect of the offence or, as the case may be, any of the offences concerned, determine in accordance with section 7 the amount to be recovered in his case by virtue of this section.

(3) The court shall then, in respect of the offence or offences concerned —

- (a) take account of the confiscation order before imposing any fine on him; and
- (b) subject to paragraph (a), leave the confiscation order out of account in determining the appropriate sentence or other manner of dealing with the defendant.

(4) For the purposes of this Act, a person who holds or has at any time (whether before or after the commencement of this Act) held any property or any interest therein