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The following Act was passed by Parliament on 16th November 2004 and assented to by the President on 29th November 2004:—

REPUBLIC OF SINGAPORE

No. 53 of 2004.

I assent.

(LS)

S R NATHAN,
President.
29th November 2004.

An Act to amend the Immigration Act (Chapter 133 of the 1997 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 may be cited as the Immigration (Amendment) Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Immigration Act is amended —

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

““Controller of Work Permits” means the Controller of Work Permits appointed under section 3 of the Employment of Foreign Workers Act (Cap. 91A);”;

- (b) by deleting the word “and” at the end of paragraph (c) of the definition of “entry”, and by inserting immediately thereafter the following paragraph:

“(ca) in the case of a child born in Singapore on or after the date of commencement of the Immigration (Amendment) Act 2004 who is not a citizen of Singapore, his birth in Singapore; and”;

- (c) by deleting the words “enter and remain” in the definition of “pass” and substituting the words “remain, or enter and remain,”; and

- (d) by inserting, immediately after the definition of “permit”, the following definition:

““personal identifier” means an image, a measurement or a recording of a person or any part of a person, or any particulars, information or record for the purpose of identifying or authenticating the identity of a person, as specified in the Schedule;”.

Amendment of section 6

3. Section 6 of the Immigration Act is amended —

- (a) by deleting the words “this section” in subsection (1)(d) and substituting the words “this subsection”;

- (b) by deleting subsection (2) and substituting the following subsection:

“(2) Every person departing from Singapore, other than a citizen of Singapore or a person exempted from this subsection by an order made under section 56, shall complete an embarkation form and submit it together with his passport or other travel document for examination by an immigration officer at the time he leaves Singapore.”; and

- (c) by deleting paragraph (b) of subsection (3) and substituting the following paragraph:

“(b) in the case of an offence under subsection (2), shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.”.

New section 6A

4. The Immigration Act is amended by inserting, immediately after section 6, the following section:

“Non-citizens born in Singapore

6A.—(1) A child who —

- (a) is born in Singapore on or after the date of commencement of the Immigration (Amendment) Act 2004; and
- (b) is not a citizen of Singapore at the time of his birth,

shall be deemed to be issued with a special pass authorising him to remain in Singapore.

(2) A special pass referred to in subsection (1) shall be valid for 42 days from the date of the birth of the child and may be extended for such period as the Controller thinks fit.

(3) An application to renew a special pass referred to in subsection (1) —

(a) shall be made —

- (i) in the case of a legitimate child, by the father or mother;
or

- (ii) in the case of an illegitimate child, by the mother; and

(b) shall be in such form as the Controller may determine.

(4) Upon an application made under subsection (3), the Controller may extend the special pass or issue the child with such permit or other pass as the Controller thinks fit.

(5) The father or mother in the case of a legitimate child, or the mother in the case of an illegitimate child, shall ensure that the child referred to in subsection (1) does not remain in Singapore after the expiry of the special pass or, where a permit or pass has been issued to the child under subsection (4), the expiry of the permit or pass, as the case may be.

(6) Any person who contravenes subsection (5) shall be guilty of an offence.”.

Amendment of section 10

5. Section 10 of the Immigration Act is amended —

(a) by inserting, immediately after the words “remain in Singapore” in subsection (1), the words “after he had ceased to be a citizen of Singapore or”;

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

“(3) The Controller may, in his discretion —

(a) at the time of issuing an entry permit under subsection (2), impose any condition as he thinks fit; or

(b) at any time after the issue of an entry permit under subsection (2), vary or revoke any condition to which the entry permit is subject or impose any condition thereto.

(3A) For the avoidance of doubt, the power of the Controller to vary, revoke or impose any condition under subsection (3)(b) may be exercised whether or not he is entitled to cancel the entry permit under this Act.”;

(c) by deleting the words “any condition or imposing any additional condition on an entry permit” in subsection (4) and substituting

the words “or imposing any condition on an entry permit under subsection (3)(b)”;

- (d) by inserting, immediately after subsection (5), the following subsection:

“(6) Any entry permit issued by the Controller before the date of commencement of the Immigration (Amendment) Act 2004 to any person who was in Singapore at the time he ceased to be a citizen of Singapore and who continued to remain in Singapore shall be deemed to have been validly issued and shall continue in force until it is cancelled.”.

New section 11A

6. The Immigration Act is amended by inserting, immediately after section 11, the following section:

“Persons ceasing to be citizens of Singapore

11A.—(1) Subject to subsection (4), any person in Singapore who, on or after the date of commencement of the Immigration (Amendment) Act 2004, ceases to be a citizen of Singapore shall not remain in Singapore for more than 24 hours after the date on which he ceases to be a citizen of Singapore unless he has been issued with a permit or a pass authorising him to remain in Singapore.

(2) Any person who, on or after the date of commencement of the Immigration (Amendment) Act 2004, ceases to be a citizen of Singapore and who wishes to remain in Singapore may make an application to the Controller in the prescribed manner for the issue to him of a permit or a pass authorising him to remain in Singapore.

(3) Upon an application made under subsection (2) and upon payment of the prescribed fee, the Controller may issue to the applicant a permit or a pass authorising him to remain in Singapore.

(4) Any person who applies for a permit or a pass under subsection (2) before the expiry of the time specified in subsection (1) —

- (a) may remain in Singapore pending the determination by the Controller of the application; and

(b) subject to subsection (5), shall not remain in Singapore for more than 24 hours after being informed that his application for a permit or pass has been rejected.

(5) Subsection (4)(b) does not prevent a person from entering and remaining in Singapore if he is subsequently issued with a permit or a pass by the Controller authorising him to enter and remain in Singapore.

(6) Any person who, without reasonable cause, contravenes subsection (1) or (4)(b) shall be guilty of an offence and —

(a) in the case where he remains unlawfully in Singapore for a period not exceeding 90 days, shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 6 months or to both; or

(b) in the case where he remains unlawfully in Singapore for a period exceeding 90 days, shall on conviction be punished with imprisonment for a term not exceeding 6 months and shall also, subject to section 231 of the Criminal Procedure Code (Cap. 68), be punished with caning with not less than 3 strokes, or where by virtue of that section he is not punishable with caning, he shall, in lieu of caning, be punished with a fine not exceeding \$6,000.”.

New section 18B

7. The Immigration Act is amended by inserting, immediately after section 18A, the following section:

“Vehicles arriving in or leaving Singapore

18B.—(1) The driver of a vehicle who wishes to drive into Singapore shall stop his vehicle at an authorised place of embarkation, an authorised point of entry or an immigration control post upon arrival in Singapore.

(2) The driver of a vehicle who wishes to drive out of Singapore shall stop his vehicle at an authorised departing place, an authorised point of departure or an immigration control post before leaving Singapore.

(3) The driver of a vehicle who, without reasonable cause, contravenes subsection (1) or (2) shall be guilty of an offence.”.

Amendment of section 23A

8. Section 23A(1) of the Immigration Act is amended by deleting the word “whenever” in the 2nd line and substituting the words “at an authorised train checkpoint and if”.

Amendment of section 24

9. Section 24(4) of the Immigration Act is amended by inserting, immediately after the word “offence” in the last line, the words “and shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 12 months or to both”.

Amendment of section 25

10. Section 25(4) of the Immigration Act is amended by inserting, immediately after the word “offence” in the last line, the words “and shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 12 months or to both”.

Amendment of section 25A

11. Section 25A(4) of the Immigration Act is amended by inserting, immediately after the word “offence” in the last line, the words “and shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 12 months or to both”.

Amendment of section 28

12. Section 28(4) of the Immigration Act is amended by deleting the word “offence.” and substituting the following words:

“offence and shall be liable on conviction —

- (i) in the case of an offence under paragraph (a), (b) or (c), to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) in the case of an offence under paragraph (d), to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 2 years or to both.”.

Amendment of section 31A

13. Section 31A of the Immigration Act is amended by inserting, immediately after subsection (4), the following subsection:

“(5) Any person who contravenes any order made under subsection (1) or (4) shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$5,000 and not more than \$10,000 or to imprisonment for a term not exceeding 12 months or to both.”.

New section 38A

14. The Immigration Act is amended by inserting, immediately after section 38, the following section:

“Immigration officer to be armed

38A. Every immigration officer shall be provided with such batons, arms, ammunition and other accoutrements as may be necessary for the effective discharge of his duties.”.

Amendment of section 43

15. Section 43 of the Immigration Act is amended —

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

“(1A) Notwithstanding subsection (1), an immigration officer may demand security from the master, owner, charterer or agent of any vessel to ensure that no member of the crew of the vessel shall disembark in or enter Singapore in contravention of the provisions of this Act or the regulations, and may refuse to release the vessel from examination until the security is furnished.”;

(b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”; and

(c) by inserting, immediately after the words “subsection (1)” in subsection (4), the words “or (1A)”.

New section 47A

16. The Immigration Act is amended by inserting, immediately after section 47, the following section:

“Seizure of moneys for purposes of repatriation, etc.

47A.—(1) A prohibited immigrant shall be liable to pay to the Government a sum sufficient to cover all expenses incurred by the Government in connection with the detention, maintenance, medical treatment and removal from Singapore of himself and his dependants.

(2) For the purposes of subsection (1), the Controller may order a prohibited immigrant to be searched and that all moneys found on him when so searched be seized and used by the Controller to meet the expenses which have been incurred or may be incurred by the Government under that subsection.

(3) Where any sum seized under subsection (2) is in excess of the total amount of expenses for which the prohibited immigrant is liable under subsection (1), the balance of the moneys shall be returned to him.

(4) The Controller may seize moneys under subsection (2) notwithstanding that the prohibited immigrant has not been charged with nor convicted of an offence.

(5) Any person who claims to be the legal owner of any moneys seized under subsection (2) (other than the prohibited immigrant from whom the moneys were seized) may, within 6 years from the date of seizure, apply to the Controller in such form and manner as may be prescribed for the moneys seized to be returned to him.

(6) Notwithstanding the provisions of any written law, the moneys seized under subsection (2) (except any excess moneys which have been returned to the prohibited immigrant under subsection (3)) shall not be liable to be garnished, attached, sequestered or levied upon for or in respect of any debt or claim, other than to meet the expenses referred to in subsection (1) or any claim made under subsection (5).”.

Amendment of section 49

17. Section 49 of the Immigration Act is amended —

- (a) by deleting the words “vehicle or vessel below 76 tonnes” in the 1st line of subsection (1) and substituting the words “vessel below 76 tons or any vehicle”;

- (b) by deleting subsection (6) and substituting the following subsections:

“(6) Where, upon an application by the Public Prosecutor, it is proved to the satisfaction of a court that an offence under this Act or the regulations has been committed and that the vehicle or vessel was used in the commission of the offence, the court shall make an order for the forfeiture of the vehicle or vessel, notwithstanding that no person may have been charged with or convicted of the offence.

(6A) No vehicle or vessel shall be forfeited under this section if it is established by the owner thereof that the vehicle or vessel was unlawfully in the possession of another person without the consent of the owner.”; and

- (c) by deleting the words “vehicles or vessels below 76 tonnes” in the section heading and substituting the words “vessels below 76 tons or vehicles”.

Amendment of section 55

18. Section 55(1) of the Immigration Act is amended —

- (a) by inserting, immediately after the word “person” in paragraph (c)(ii) and (iii), the words “(other than a person referred to in sub-paragraph (v))”;
- (b) by inserting, immediately after sub-paragraph (iv) of paragraph (c), the following sub-paragraph:

“(v) the terms and conditions subject to which any person who has ceased to be a citizen of Singapore may be granted a permit or a pass entitling him to enter, re-enter or remain temporarily within Singapore, including but not limited to the period for which such a permit or pass may be granted, the classes of such permits and passes and the authority who may issue such permits or passes;”;

- (c) by deleting paragraph (ga) and substituting the following paragraphs:

“(ga) providing for the taking or recording of any personal identifier of —

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- (i) any person who applies for or has been issued with a permit or pass;
 - (ii) any person suspected or have been convicted of an offence under section 5, 6(1), 15 or 36 or the regulations; or
 - (iii) any prohibited immigrant;
 - (gb) providing for the use of any mechanical, electrical or other form of device or system for the taking or recording of all or any of the personal identifiers;
 - (gc) providing for the collation of any personal identifier taken or recorded pursuant to regulations made under paragraph (ga) and the dissemination thereof to the police and to any other law enforcement agency authorised by the Controller to receive it;” and
 - (d) by deleting paragraph (i) and substituting the following paragraph:
 - “(i) providing for a deposit or security to be made or given by or in respect of any person as a condition of, or for the grant of, an entry permit, a re-entry permit or a pass to him and the conditions subject to which the deposit or security may be forfeited;”.

Amendment of section 57

19. Section 57 of the Immigration Act is amended —

- (a) by inserting, immediately after the words “conveying to” in subsection (1)(c), the words “or out of”;
- (b) by deleting paragraph (d) of subsection (1) and substituting the following paragraph:
 - “(d) harbours a person —
 - (i) whom the defendant knows has acted in contravention of the provisions of this Act or the regulations;
 - (ii) with reckless disregard as to whether he has acted in contravention of the provisions of this Act or the regulations; or

- (iii) negligently failing to ascertain as to whether he has acted in contravention of the provisions of this Act or the regulations;”;
- (c) by inserting, at the end of subsection (1)(k), the word “or”;
- (d) by deleting the word “; or” at the end of subsection (1)(l) and substituting a comma;
- (e) by deleting paragraph (m) of subsection (1);
- (f) by deleting the word “canning” in the last line of subsection (1)(ia)(A) and substituting the word “caning”;
- (g) by deleting “, (d)” in subsection (1)(ii);
- (h) by deleting paragraphs (iv) and (v) of subsection (1) and substituting the following paragraphs:
 - “(iv) in the case of an offence under paragraph (d)(i) or (ii), shall on conviction be punished with imprisonment for a term of not less than 6 months and not more than 2 years and shall also be liable to a fine not exceeding \$6,000;
 - (v) in the case of an offence under paragraph (d)(iii), shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both; and
 - (vi) in the case of an offence under paragraph (f), (g), (h), (i), (j), (k) or (l), shall be liable on conviction to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 12 months or to both.”;
- (i) by deleting subsection (7) and substituting the following subsections:
 - “(7) Where, in any proceedings for an offence under subsection (1)(d)(ii) or (iii), it is proved that the defendant has given shelter to an immigration offender, it shall be presumed, until the contrary is proved, that the defendant has harboured him with reckless disregard as to whether he is an immigration offender or negligently failing to ascertain as to whether he is an immigration offender, as the case may be.

(7A) In any proceedings for an offence under subsection (1)(d)(ii) or (iii), it shall not be a defence for the defendant to prove that the immigration offender harboured was in possession of a permit or pass issued to the immigration offender under this Act or the regulations unless the defendant further proves that he has exercised due diligence to ascertain that the permit or pass was at the material time valid under this Act or the regulations.

(7B) Where a defendant who is charged with an offence under subsection (1)(d)(ii) has rebutted the presumption that the defendant has harboured an immigration offender with reckless disregard as to whether he is such a person under subsection (7), the defendant shall be liable to be charged with an offence under subsection (1)(d)(iii).

(7C) For the purpose of subsection (7A) —

- (a) a defendant who is charged with an offence under subsection (1)(d)(ii) shall not be deemed to have exercised due diligence unless the defendant has carried out any 2 of the acts specified in subsection (7D); and
- (b) a defendant who is charged with an offence under subsection (1)(d)(iii) shall not be deemed to have exercised due diligence unless the defendant has carried out all the acts specified in subsection (7D).

(7D) The acts referred to in subsection (7C), to be carried out by the defendant in relation to the immigration offender harboured, are —

- (a) inspecting the permit or pass issued to the immigration offender under this Act or the regulations;
- (b) checking the permit or pass to ascertain that the particulars on the passport of the immigration offender materially correspond with the particulars set out in the permit or pass;

- (c) checking with —
 - (i) the Controller of Immigration or the Controller of Work Permits, as the case may be, that the permit or pass was valid at the material time; or
 - (ii) the employer to verify that the immigration offender is employed by the employer and that the particulars of the immigration offender correspond with the records of the employer, where the name of the employer of the immigration offender is specified in the permit or pass.”;
- (j) by deleting the words “(d) or” in subsection (9);
- (k) by deleting the words “harboured or” in subsection (9);
- (l) by deleting subsection (10) and substituting the following subsection:

“(10) For the purpose of subsection (9), a defendant who is charged with an offence under subsection (1)(e) shall not be deemed to have exercised due diligence unless the defendant —

 - (a) has inspected the permit or pass issued to the person employed by him;
 - (b) has checked the permit or pass to ascertain that the particulars on the passport of the person employed by him materially correspond with the particulars set out in the permit or pass; and
 - (c) where the person employed by him is a holder of a visit pass, has reasonable grounds for believing that the person had, at the material time, in force a work permit issued under the Employment of Foreign Workers Act (Cap. 91A) or had obtained the written consent of the Controller.”;
- (m) by deleting the words “section 57A” in subsection (13) and substituting the words “sections 57A and 57B”; and
- (n) by inserting, immediately after subsection (13), the following subsection:

“(14) A reference to a permit or pass in subsections (7D) and (10) in relation to a person shall be read as a reference to the original copy of the permit or pass issued to that person under this Act or the regulations.”.

Amendment of section 57A

20. Section 57A(7) of the Immigration Act is amended by deleting the definition of “construction works” and substituting the following definition:

“ “construction works” means the construction, extension, installation, carrying out, repair, maintenance, renewal, removal, alteration, dismantling or demolition of —

- (a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
- (b) any road, motorway, harbour works, railway, cableway, canal or aerodrome;
- (c) any drainage, irrigation or river control work;
- (d) any electrical, water, gas or telecommunication works;
- (e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation,

and includes any works which form an integral part of, or are preparatory to, the works described in paragraphs (a) to (e), including site clearance, earth-moving, excavation, laying of foundation, site restoration and landscaping, and such other works or activities as the Minister may, by notification in the *Gazette*, specify to be construction works;”.

New section 57B

21. The Immigration Act is amended by inserting, immediately after section 57A, the following section:

“Assisting, encouraging or inducing giving of shelter to immigration offenders

57B.—(1) Any person who, for or in expectation of any fee, gain or reward, assists, encourages or induces any other person to give shelter to any immigration offender shall, if the second-mentioned person gives shelter to the immigration offender in consequence of such assistance, encouragement or inducement, be guilty of an offence and shall on conviction be punished with imprisonment for a term of not less than 6 months and not more than 2 years and shall also be liable to a fine not exceeding \$6,000.

(2) In any proceedings for an offence under subsection (1), it shall not be a defence for the defendant to prove that the immigration offender was in possession of a permit or pass issued to the immigration offender under this Act or the regulations unless the defendant further proves that he has exercised due diligence to ascertain that the permit or pass was at the material time valid under this Act or the regulations.

(3) For the purpose of subsection (2), a defendant who is charged with an offence under subsection (1) shall not be deemed to have exercised due diligence unless the defendant —

- (a) has inspected the permit or pass issued to the person harboured;
- (b) has checked the permit or pass to ascertain that the particulars on the passport of the person harboured materially correspond with the particulars set out in the permit or pass; and
- (c) has checked with —
 - (i) the Controller or the Controller of Work Permits, as the case may be, that the permit or pass was valid at the material time; or
 - (ii) the employer to verify that the person is employed by the employer and that the particulars of the person correspond with the records of the employer, where the name of the employer of the person harboured is specified in the permit or pass.

(4) No prosecution for an offence under subsection (1) or for an attempt to commit that offence shall be instituted unless the person whom the defendant is alleged to have assisted, encouraged or induced in fact gave shelter to the immigration offender in consequence of such assistance, encouragement or inducement.

(5) A reference to a permit or pass in subsection (3) in relation to a person shall be read as a reference to the original copy of the permit or pass issued to that person under this Act or the regulations.”.

New section 61A

22. The Immigration Act is amended by inserting, immediately after section 61, the following section:

“Amendment of Schedule

61A. The Minister may at any time, by order published in the *Gazette*, amend, add to or vary the Schedule.”.

New Schedule

23. The Immigration Act is amended by inserting, immediately after section 62, the following Schedule:

“THE SCHEDULE

Sections 2 and 61A

PERSONAL IDENTIFIERS

1. Any finger, thumb or palmar impression.
 2. Any photograph or other image of a person’s face and shoulders.”.
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