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SkillsFuture Singapore Agency Bill

Bill No. 24/2016.

Read the first time on 11 July 2016.

SKILLSFUTURE SINGAPORE AGENCY ACT 2016

(No. of 2016)

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A BILL

intituled

An Act to establish the SkillsFuture Singapore Agency and to make consequential and related amendments to certain other Acts.

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

PART 1
PRELIMINARY

Short title and commencement

1. This Act is the SkillsFuture Singapore Agency Act 2016 and
5 comes into operation on a date that the Minister appoints by
notification in the *Gazette*.

Interpretation

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

10 “adult education” means that part of post-secondary education
and training which is directed towards the development or
upgrading of skills and knowledge in relation to work in
commerce or industry;

“Agency” means the SkillsFuture Singapore Agency established
by section 3;

15 “auditor”, in relation to the Agency, means the Auditor-General
or such other auditor appointed by the Minister under
section 51;

20 “Chairperson”, in relation to the Agency, means the member of
the Agency who is appointed under section 12 as the
Chairperson of the Agency, and includes any individual
appointed under section 14 to act in that capacity;

“Chief Executive” means the Chief Executive of the Agency
appointed under section 38, and includes any individual
acting in that capacity;

25 “commerce or industry” includes any trade, manufacturing or
service industry, business or other related activity;

“committee” means a committee of the Agency appointed under
section 34;

30 “committee member” means an individual appointed to be a
member of a committee;

“delegate” means a person to whom the Agency under section 36(1) delegates the performance or exercise of any of its functions or powers;

“Deputy Chairperson”, in relation to the Agency, means the member of the Agency who is appointed under section 12 as the Deputy Chairperson of the Agency;

5

“functions”, in relation to the Agency, means functions conferred on the Agency by this Act or any other Act;

“further education” means a post-secondary education program that leads to the development of knowledge and skills that are not specific to any particular occupation;

10

“grant” includes a grant by way of reimbursement under a reimbursement arrangement;

“member”, in relation to the Agency, means a member of the Agency who is appointed under section 10, and includes any person appointed under section 14 to act in that capacity;

15

“post-secondary education” means education of persons —

(a) who are the age of 16 years or older; and

(b) who are not undergoing a course of education at any of the following:

20

(i) a Government school;

(ii) a school registered under the Education Act (Cap. 87) and which receives a grant-in-aid or subvention extended by the Government to aided schools within the meaning of that Act;

25

(iii) an education institution providing education in accordance with religious beliefs and principles;

“private education” has the same meaning as in the Private Education Act (Cap. 247A);

“reimbursement arrangement” means a written arrangement made in respect of any adult education or further education provided to a person eligible to financial incentives, support,

30

grant, aid or assistance from the Agency to the effect that where —

(a) the person so eligible receives or undergoes adult education or further education for a charge; and

(b) the provider of the adult education or further education incurs costs and expenses in providing the education to that eligible person,

the provider of the adult education or further education is entitled, under the arrangement, to reimbursement from the Agency of the whole or part of its charges in respect of the education so provided, but in no case exceeding that person's eligibility to financial incentive, support, grant, aid or assistance (as the case may be) for that education;

“Singapore Workforce Development Agency” or “SWDA” means the Singapore Workforce Development Agency established by the Singapore Workforce Development Agency Act (Cap. 305D);

“subdelegate” means a person to whom a delegate under section 36(2) further delegates the performance or exercise of any of the Agency's functions or powers;

“transfer date” means the date of commencement of Part 8.

PART 2

ESTABLISHMENT, FUNCTIONS AND POWERS OF AGENCY

SkillsFuture Singapore Agency

3. A body called the SkillsFuture Singapore Agency is established by this section.

Agency is body corporate

4.—(1) The Agency —

(a) is a body corporate with perpetual succession;

(b) must have a seal;

- (c) may acquire, hold and dispose of real and personal property;
and
 - (d) may sue and be sued in its corporate name.
- (2) The Agency may use, and operate under, one or more trading names approved by the Minister. 5
- (3) A trading name can be an abbreviation or adaptation of the Agency's corporate name, or a name other than the Agency's corporate name.
- (4) The Agency must cause notice of every trading name approved under subsection (2) to be published in the *Gazette*; but failure to do so does not invalidate the approval or use of that name. 10

Functions of Agency

5.—(1) The Agency has the following functions:

- (a) to plan and develop policies, programs and services that provide, or support the provision, of adult education and further education; 15
- (b) to promote, facilitate and assist in the identification, development and upgrading of skills and competencies for the current, emerging and future needs of the Singapore workforce; 20
- (c) to develop, in consultation with employers and relevant representatives of commerce or industry, models for the provision of adult education or further education for the purposes of developing skills;
- (d) to promote a national approach to the provision of adult education and further education through collaboration and cooperation between universities, public sector post-secondary education institutions and other providers of adult education or further education; 25
- (e) to provide funding for the provision of, or taking part in, adult education and further education (wherever held) that is responsive to the needs of commerce or industry or employers; 30

- (f) to promote public awareness in Singapore of the importance of adult education and further education and encourage enthusiasm for lifelong learning;
- (g) to collect, compile and analyse data about the provision of adult education or further education;
- (h) to accredit, or facilitate accreditation by others in Singapore, of providers of or courses in adult education or further education (even if the course is developed outside Singapore);
- (i) to facilitate the improvement of quality of courses in adult education or further education provided in Singapore, including the standard of teachers and trainers in Singapore of these courses;
- (j) to promote or undertake research in Singapore into matters relating to adult education and further education;
- (k) to facilitate public availability of meaningful and accurate information relating to the quality of courses in adult education or further education provided in Singapore (even if the course is developed outside Singapore);
- (l) to provide career guidance services and facilities to assist students prepare to enter the labour market and to other people;
- (m) to administer —
 - (i) the Private Education Act (Cap. 247A) in accordance with that Act; and
 - (ii) the Skills Development Fund in accordance with the Skills Development Levy Act (Cap. 306);
- (n) to cooperate and collaborate with the Singapore Workforce Development Agency in the discharge of its functions under the Singapore Workforce Development Agency Act (Cap. 305D);
- (o) to perform such other functions as may be conferred on the Agency by any other Act.

(2) In performing the functions conferred on it by subsection (1), the Agency is to have regard to —

- (a) increasing Singapore workforce productivity and improving the international competitiveness of commerce or industry in Singapore; 5
- (b) current, emerging and future workforce skills needs across commerce or industry sectors in Singapore;
- (c) widening participation in learning opportunities for adults, particularly those that enhance employability of citizens and residents of Singapore; and 10
- (d) ensuring a system of training and workforce development in Singapore that —
 - (i) responds to the needs of commerce or industry and employers, and in which commerce or industry and employers influence the policies, priorities and delivery of adult education and further education; 15
 - (ii) offers high quality and accessible adult education and further education; and
 - (iii) results in those persons undergoing that education obtaining skills. 20

(3) In addition to the functions conferred by this section, the Agency may undertake such other functions as the Minister may assign to the Agency, by notification in the *Gazette*, and in so undertaking —

- (a) the Agency is deemed to be fulfilling the purposes of this Act; and 25
- (b) the provisions of this Act apply to the Agency in respect of those other functions and duties.

(4) Nothing in this section imposes on the Agency, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which the Agency would not otherwise be subject. 30

(5) In this section —

“public sector post-secondary education institution” means —

- (a) the Institute of Technical Education, Singapore established by section 3 of the Institute of Technical Education Act (Cap. 141A);
- (b) the Nanyang Polytechnic established under the Nanyang Polytechnic Act (Cap. 191A);
- (c) the Ngee Ann Polytechnic established under the Ngee Ann Polytechnic Act (Cap. 207);
- (d) the Republic Polytechnic established under the Republic Polytechnic Act (Cap. 270);
- (e) the Singapore Polytechnic established under the Singapore Polytechnic Act (Cap. 303);
- (f) the Temasek Polytechnic established under the Temasek Polytechnic Act (Cap. 323A); or
- (g) any company that is owned (wholly or partly) by the Institute of Technical Education, Singapore or any polytechnic referred to in paragraphs (b) to (f);

“university” means —

- (a) the Nanyang Technological University;
- (b) the National University of Singapore;
- (c) the Singapore Management University;
- (d) the Singapore University of Technology and Design;
- (e) the Singapore Institute of Technology;
- (f) any other person whose function of providing university education is determined by a public Act; or
- (g) any entity owned (wholly or partly) or controlled by any university or person referred to in paragraphs (a) to (f).

Powers of Agency

6.—(1) Subject to this Act, the Agency has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) Without limiting the generality of subsection (1), the powers of the Agency mentioned in that subsection include power — 5

- (a) to enter into contracts, agreements or arrangements;
- (b) to offer and conduct courses in and provide facilities for adult education or further education, and organise or sponsor seminars, workshops and conferences; 10
- (c) to publish or provide any information, or publish or sponsor the publication of works, relating to adult education, further education or private education;
- (d) to apply for, obtain and hold, whether on its own behalf or jointly with any other person, any intellectual property rights; 15
- (e) to enter into agreements or arrangements for the commercial exploitation of those intellectual property rights, whether by assignment, licensing or otherwise;
- (f) with the approval of the Minister, to join in the formation of a company, association, trust or partnership or enter into a joint venture with any person; 20
- (g) to be a member of a company, association, trust or partnership;
- (h) to provide financial incentives, support, grant, aid or assistance to any person; 25
- (i) to charge for the provision of goods or services, or the performance of work, by, or on behalf of, the Agency;
- (j) to waive the payment of fees and charges payable to the Agency; 30
- (k) to accept gifts, grants, bequests and devises made to the Agency, and act as trustee of money and other property vested in the Agency on trust;

(*l*) to enter into agreements or arrangements with persons, authorities or organisations in Singapore or overseas for the purposes of the Agency;

(*m*) to provide technical, consultancy or advisory services to the Government or any other person in Singapore or overseas on any matter related to, or connected with, adult education, further education or private education; and

(*n*) to do any other thing that is necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.

(3) To avoid doubt, subsection (1) does not limit any other power given to the Agency by any other provision in this Act or by any other Act.

Directions of Minister, etc.

7.—(1) The Minister may give to the Agency directions on the performance by the Agency of its functions; and the Agency must give effect to all such directions.

(2) To avoid doubt, the Minister is entitled —

(*a*) to have information in the possession of the Agency; and

(*b*) where the information is in or on a document, to have, and make and retain copies of, that document.

(3) For the purposes of subsection (2), the Minister may —

(*a*) request the Agency to furnish information to the Minister; or

(*b*) request the Agency to give the Minister access to information.

(4) The Agency must comply with a request under subsection (3).

(5) In this section —

“document” includes any tape, disk or other device or medium on which information is recorded or stored;

“information” means information specified, or of a description specified, by the Minister that relates to the functions of the Agency.

Agency's symbol, etc.

8.—(1) The Agency has the exclusive right to the use of one or more symbols or representations as it may select or devise (each called the Agency's symbol or representation), and to display or exhibit those symbols or representations in connection with the Agency's activities or affairs.

5

(2) A person who —

(a) uses, without the prior written permission of the Agency, a symbol or representation identical with the Agency's symbol or representation; or

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(b) uses a symbol or representation which so resembles the Agency's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion,

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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PART 3

CONSTITUTION AND MEMBERSHIP OF AGENCY

Division 1 — Appointment, resignation and removal

Membership of Agency

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9.—(1) The Agency consists of at least 9 and not more than 15 members.

(2) One of the members (who is not the Chairperson) may be the Chief Executive.

Appointment of Agency members

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10.—(1) Each member of the Agency is to be appointed by the Minister.

(2) Every appointment must be made by instrument in writing given to the member.

(3) The instrument must state —

- (a) the term of the appointment; and
- (b) the date the appointment takes effect, which must not be a date earlier than the date the instrument is received by the member.

Membership disqualification

11.—(1) In appointing members of the Agency, the Minister must have regard to whether the members of the Agency will collectively possess the appropriate knowledge, skills, and experience to assist the Agency to perform its functions effectively.

(2) However, the following individuals are disqualified to be or from being a member of the Agency:

(a) an undischarged bankrupt or an individual who has an arrangement with any of his or her creditors;

(b) a Judge or judicial officer;

(c) an individual who has been sentenced to imprisonment for a term of 6 months or more, and has not received a free pardon;

(d) an individual who is —

(i) disqualified under section 154(1) of the Companies Act (Cap. 50) from acting as a director, or taking part (whether directly or indirectly) in the management, of a company during the period of disqualification in that section; or

(ii) disqualified by a court order under section 149(1), 149A(1) or 154(2) of the Companies Act from being a director or in any way (whether directly or indirectly) being concerned in, or taking part in, the management of a company during the period of disqualification in the court order;

(e) an individual who lacks capacity in respect of his or her duties as a member within the meaning of the Mental Capacity Act (Cap. 177A), or in respect of whom an order is

made under section 10 of the Mental Health (Care and Treatment) Act (Cap. 178A).

Chairperson and Deputy Chairperson

12.—(1) The Minister may, by instrument in writing, appoint —

- (a) a member (other than the Chief Executive) to be the Chairperson of the Agency for the period specified in the instrument; and 5
- (b) a member (other than the Chairperson of the Agency) to be the Deputy Chairperson of the Agency for the period specified in the instrument. 10

(2) The Chairperson or Deputy Chairperson holds office until —

- (a) his or her term of office as Chairperson or Deputy Chairperson (as the case may be) expires;
- (b) he or she ceases to hold office as a member of the Agency; or
- (c) the Minister terminates his or her appointment as Chairperson or Deputy Chairperson (as the case may be), 15

whichever first happens.

(3) The Deputy Chairperson of the Agency has and may exercise all of the functions and powers of the Chairperson in relation to a matter if — 20

- (a) the Chairperson is unavailable; or
- (b) the Chairperson is interested (within the meaning of section 21) in the matter.

Premature vacancies

13.—(1) If a premature vacancy occurs in the office of any member of the Agency, the Minister may, subject to sections 9, 10 and 11, appoint an individual to fill the vacancy and hold that office for the remainder of the term for which the vacating member was appointed. 25

(2) In this section, “premature vacancy”, for an office, means a vacancy that occurs in that office for any reason other than the expiry of the term of office. 30

Acting Chairperson and members

14.—(1) The Minister may appoint an individual (other than the Chief Executive) to act temporarily as the Chairperson of the Agency during any period, or during all periods, when the Chairperson —

- 5 (a) is absent from duty or Singapore; or
- (b) is, for any reason, unable to perform the duties of the office.

(2) The Minister may appoint an individual to act temporarily as a member of the Agency (other than the Chairperson) during any period, or during all periods, when the member —

- 10 (a) is absent from duty or Singapore; or
- (b) is, for any reason, unable to perform the duties of the office.

(3) An individual is ineligible for appointment under this section to act as the Chairperson or a member of the Agency if the individual is disqualified under section 11(2) for appointment as a member of the
15 Agency.

Removal of member

15.—(1) The Minister may, at any time and without giving any reason, remove a member of the Agency from office.

(2) Every removal under subsection (1) must be made by notice in
20 writing given to the member with a copy to the Agency.

(3) The notice must state the date the removal takes effect, which must not be a date earlier than the date the notice is received by the member.

Resignation from office

25 **16.**—(1) A member of the Agency may resign his or her office by written notice to the Minister (with a copy to the Agency) signed by the member.

(2) The resignation is effective when the notice in subsection (1) is received by the Minister or at any later time specified in the notice.

Validity of acts, etc.

17.—(1) Despite section 33 of the Interpretation Act (Cap. 1), the exercise of any power or performance of any function by the Agency is not affected merely because at the relevant time —

- (a) there was a vacancy in the membership of the Agency, including a vacancy arising from the failure to appoint a member; 5
- (b) there was some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency; 10
- (c) a member failed to disclose his or her interest in a relevant matter (within the meaning of Division 3);
- (d) the Agency failed to give notice under section 25; or
- (e) there was an irregularity in the Agency's decision-making procedure that does not affect the merits of the decision made. 15

(2) The acts of an individual as a member of the Agency are not affected merely because —

- (a) there was some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency; or 20
- (b) in the case of an individual acting in the capacity of the Chairperson, member or Chief Executive, the occasion for the individual so acting, or for his or her appointment, had not arisen or had ended. 25

Division 2 — Terms and conditions for members

Term of appointment

18.—(1) Subject to section 20, each member of the Agency holds office for a period of 3 years or any shorter period specified in the instrument of appointment. 30

(2) A member of the Agency may be re-appointed.

Remuneration, etc.

19. The members of the Agency may be paid, out of the funds of the Agency, such salaries, fees and allowances as the Minister from time to time determines.

5 Vacation of office

20.—(1) A member of the Agency ceases to hold office if he or she —

- (a) dies;
- (b) is adjudicated a bankrupt or makes an arrangement with any
10 of his or her creditors;
- (c) becomes otherwise disqualified from being a member under section 11(2);
- (d) is removed from office in accordance with section 15;
- (e) resigns in accordance with section 16;
- 15 (f) fails without reasonable cause to disclose any interest required under Division 3 and a notice is given under section 25 to the Minister about that default;
- (g) fails to attend 3 consecutive meetings of the Agency without the approval of the Agency; or
- 20 (h) is not re-appointed when his or her term of office expires.

(2) A member is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.

Division 3 — Members' duties on disclosure of interests

25 Interpretation of this Division

21.—(1) In this Division, “relevant matter” means —

- (a) the Agency's performance of its functions or exercise of its powers; or
- 30 (b) an arrangement, agreement, or a contract made or entered into, or proposed to be made or entered into, by the Agency.

- (2) A member of the Agency is interested in a relevant matter if —
- (a) the member, or an associate of the member, may derive a financial benefit from the relevant matter;
 - (b) the member, or an associate of the member, may have a financial interest in a person to whom the relevant matter relates; or 5
 - (c) the member, or an associate of the member, is otherwise directly or indirectly interested in the relevant matter.
- (3) However, a member of the Agency is not interested in a relevant matter — 10
- (a) only because of an interest in a question about the level of salaries, fees, allowances or expenses to be set for members;
 - (b) only because of an interest that the member, or an associate of the member, shares in common with the general public or a substantial section of the public; 15
 - (c) only because the member, or an associate of the member, has an interest in payment or reimbursement of membership fees for, or expenses related to membership in, a body with predominantly charitable objects;
 - (d) only because he or she has past or current involvement in the relevant sector, industry or practice; or 20
 - (e) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act or another Act administered by the Agency. 25
- (4) In this Division, a person is an associate of another if —
- (a) they are spouses or siblings or a parent and child or they are in a similar close family relationship;
 - (b) they are in partnership;
 - (c) one is a company and the other is a director or manager of the company; 30

(d) one is a private company within the meaning of the Companies Act (Cap. 50) and the other is a shareholder in the company; or

5 (e) a chain of relationships can be traced between them under one or more of the above paragraphs.

Obligation to disclose interest

10 **22.**—(1) A member who is interested in a relevant matter relating to the Agency must disclose details of the interest in accordance with section 23 as soon as practicable after the member becomes aware that he or she is interested.

(2) A general notice of an interest in a relevant matter relating to the Agency, or in a relevant matter that may in future relate to the Agency, that is disclosed in accordance with section 23 is a standing disclosure of that interest for the purposes of this section.

15 (3) However, a standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases.

20 (4) To avoid doubt, this section is in addition to, and not in derogation of, the operation of any rule of law restricting a member from having any interest in arrangements, agreements or contracts with the Agency or from holding offices or possessing from holding offices or possessing interests in conflict with his or her duties as such a member.

To whom and what to disclose

25 **23.**—(1) A member who is interested in a relevant matter relating to the Agency must disclose details of the interest —

(a) in the case of the Chairperson, to the Chief Executive, all other members and the Minister; or

30 (b) in the case of any other member, to the Chief Executive and —

(i) to the Chairperson;

- (ii) if there is no Chairperson or the Chairperson is interested in that matter, to the Deputy Chairperson; or
 - (iii) if there is neither a Chairperson nor Deputy Chairperson or if both the Chairperson and Deputy Chairperson are interested in that matter, to the Minister. 5
- (2) The details that must be disclosed under this section are —
- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
 - (b) the nature and extent of the interest (if the monetary value cannot be quantified). 10
- (3) The Chief Executive must ensure that every disclosure under this section —
- (a) is recorded in a register of interests kept by the Agency; and
 - (b) is brought to the attention of the member presiding under section 30 at a meeting of the Agency that relates to the relevant matter. 15

Consequences of being interested in relevant matter

- 24.** A member of the Agency who is interested in a relevant matter relating to the Agency — 20
- (a) must not vote or take part in any discussion or decision of the Agency or any committee relating to the relevant matter, or otherwise participate in any activity of the Agency that relates to the relevant matter;
 - (b) must withdraw from any meeting of the Agency or committee during the consideration or discussion relating to the relevant matter if the member presiding at the meeting under section 30 so requests; 25
 - (c) must not sign any document relating to the entry into a transaction or the initiation of the relevant matter; and 30
 - (d) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the Agency or a committee during

which a discussion or decision relating to the relevant matter occurs or is made.

Consequences of failure to disclose

5 **25.** The Agency must notify the Minister of a failure to comply with section 23 or 24, and of the acts affected, as soon as practicable after becoming aware of the failure.

PART 4

DECISION-MAKING BY AGENCY

Division 1 — Meetings

10 **Procedure generally**

26. Except as otherwise provided under this Act or any other Act, the members of the Agency must regulate their own procedure.

Notice of meetings

15 **27.—**(1) The Agency is to hold such meetings as are necessary for performing its functions.

(2) The Chairperson must appoint the times and places of the meetings of the Agency, and cause notice of those meetings to each member not present when the appointment is made.

Method of holding meetings

20 **28.—**(1) A meeting of the Agency may be held —

(a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or

(b) by means of audio, audio and visual, or electronic communication provided that —

25 (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

(ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

(2) For the purposes of this Act, a member participating in a meeting as permitted under subsection (1)(b)(i) is taken to be present at the meeting.

Quorum

29.—(1) The quorum is the number that is one-third the number of members. 5

(2) No business may be transacted at a meeting of the Agency if a quorum is not present.

Presiding at meetings

30.—(1) At a meeting of the Agency, the following person presides: 10

(a) if there is a Chairperson and he or she is present and is not interested (within the meaning of section 21) in the matter — the Chairperson;

(b) if there is no Chairperson, or the Chairperson is not present or is interested (within the meaning of section 21) in the matter, and the Deputy Chairperson who is not so interested in the matter is present — the Deputy Chairperson; 15

(c) in any other case, the member elected from among themselves to preside.

(2) A person mentioned in subsection (1)(b) or (c) may exercise all the powers and functions of the Chairperson for the purposes of the meeting. 20

Voting at meetings

31.—(1) Each member has one vote.

(2) In addition to his or her general vote, the member presiding at a meeting has, in the case of an equality of votes, a casting vote. 25

(3) A resolution of the Agency is passed if it is agreed by all members present without dissent, or if a majority of the members who are entitled to vote on the matter cast votes in favour of it.

(4) A member present at a meeting of the Agency is presumed to have agreed to, and to have voted in favour of, a resolution of the 30

Agency unless he or she expressly dissents from or votes against the resolution at the meeting.

Decision-making outside of meetings

32.—(1) If —

- 5 (a) all of the members of the Agency for the time being are sent
 (whether by post, delivery or electronic communication) a
 document setting out a resolution about a matter; and
- (b) a majority of those members who are entitled to vote on the
 matter sign or approve in writing a document containing a
10 statement that they are in favour of a resolution in the terms
 set out in the document,

a resolution in those terms is taken to be passed at a meeting of the Agency held on the day that the last member required for the majority signs or approves the document.

- 15 (2) The resolution may consist of several documents each
 containing the same wording of the resolution and statement in
 favour, and each signed in writing by one or more members.

- (3) For the purpose of the approval of a resolution under this section,
 the Chairperson and each member have the same voting rights as they
20 have under section 31 at a meeting of the Agency.

(4) A resolution approved under this section must be recorded in the minutes of the meetings of the Agency without delay after the resolution is approved.

Execution of documents

- 25 **33.—**(1) The Agency must have a seal.

(2) The seal of the Agency is to be kept and used as authorised by the Agency.

(3) A document is duly executed by the Agency if —

- 30 (a) the seal of the Agency is affixed to the document in the
 presence of one of its members who must sign the document
 to attest that the seal was so affixed, and the document is
 signed —

- (i) by any 2 members generally or specially authorised by the Agency for the purpose; or
 - (ii) by one member and the Chief Executive; or
 - (b) it is signed on behalf of the Agency by a person or persons authorised to do so by the Agency and in accordance with the terms of that authorisation. 5
- (4) A document purporting to be executed in accordance with this section must be presumed to be duly executed until the contrary is shown.
- (5) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Agency appearing on a document. 10
- (6) When a document is produced bearing a seal purporting to be the seal of the Agency, it must be presumed that the seal is the seal of the Agency until the contrary is shown. 15

Division 2 — Committees and delegation

Appointment of committees

- 34.—**(1) The Agency may, by resolution, appoint such number of committees as it thinks fit for purposes which, in the opinion of the Agency, would be better regulated and managed by means of such committees. 20
- (2) A committee appointed under this section may consist of such number of individuals as the Agency thinks fit, and may include individuals who are not members of the Agency.
- (3) Without limiting the generality of subsection (1), the Agency may appoint committees — 25
- (a) to advise the Agency on any matters relating to the Agency's functions and powers that are referred to the committee by the Agency; or
 - (b) to perform or exercise any of the Agency's functions and powers that are delegated to the committee, if the committee includes at least one member of the Agency. 30

(4) An individual may not be appointed as a member of a committee unless, before appointment, he or she discloses to the Agency the details of any interest (within the meaning of section 21 as modified by section 35) the individual may have if he or she were a member of that committee.

Proceedings of committees

35.—(1) Section 17 applies to a committee, and to committee members or individuals purporting to be committee members, with the necessary modifications.

(2) Sections 21 to 25 apply to a committee and committee members subject to the following modifications:

(a) the reference in those sections to a relevant matter is a reference to a relevant matter (within the meaning of section 21) regulated or managed by the committee;

(b) the reference in those sections to a member of the Agency is a reference to a committee member;

(c) the reference in section 23 to disclosing details of an interest in a relevant matter to the Minister is a reference to disclosing those details to the Agency;

(d) the reference in section 24 to a discussion, decision, activity or meeting of the Agency is a reference to a discussion, decision, activity or meeting of the committee;

(e) the reference in section 25 to the Agency reporting to the Minister is a reference to the committee reporting to the Agency.

(3) Subject to this Act and any restrictions by a resolution under section 34(1), a committee may regulate its own proceedings and business as it thinks fit.

Ability to delegate

36.—(1) The Agency may delegate the performance or exercise of any of its functions or powers, either generally or specially, to any of the following persons by resolution and written notice to the person or persons:

- (a) a member of the Agency;
- (b) the Chief Executive, any employee of the Agency or any other person performing duties in the Agency;
- (c) a committee;
- (d) a wholly-owned subsidiary company of the Agency; 5
- (e) a person engaged as a contractor by the Agency.

(2) A delegation by the Agency under subsection (1) of the performance or exercise of any of its functions or powers —

- (a) to a person in subsection (1)(a), (b) or (c) may authorise the delegate to subdelegate the performance or exercise of the function or power to another member, an appropriately qualified employee of the Agency or person performing duties in the Agency (called in this Act a subdelegate); or 10
- (b) to a person in subsection (1)(d) or (e) may authorise the delegate to subdelegate the performance or exercise of the function or power to an appropriately qualified employee of that delegate (also called in this Act a subdelegate), 15

but subject to the same restrictions, and with the same effect, as if the subdelegate is the delegate.

(3) Subsections (1) and (2) do not apply — 20

- (a) to the power to make subsidiary legislation conferred by this Act or any other Act administered by the Agency; or
- (b) to any power under this Act or any other Act administered by the Agency that is declared by that Act to be non-delegable.

(4) Subject to section 34(3)(b), a delegation or subdelegation in accordance with this Act — 25

- (a) does not affect or prevent the performance of any function or the exercise of any power by the Agency; and
- (b) is not affected by any change in the membership of the Agency or of any committee or by any change in the Chief Executive or employee. 30

(5) In this section —

(a) a reference to a wholly-owned subsidiary company of the Agency includes a company limited by guarantee the sole member of which is the Agency; and

5 (b) a reference to a person performing duties in the Agency includes a person performing duties in the Agency under a contract, or under an arrangement making available temporarily to the Agency the services of public officers (or secondment).

10 **Power of delegate**

37.—(1) A delegate (or subdelegate) who purports to perform a function or exercise a power under delegation (or subdelegation) —

15 (a) is taken to be in accordance with the terms of a delegation (or subdelegation) under section 36, unless the contrary is shown; and

(b) must produce evidence of his or her authority to do so, if reasonably requested to do so.

20 (2) A subdelegate to whom a function or power of the Agency is subdelegated under section 36(2) is not authorised to further delegate that power or function to anyone else.

PART 5

PERSONNEL MATTERS

Appointment of Chief Executive

38.—(1) The Chief Executive —

25 (a) is responsible to the Agency for the proper administration and management of the functions, duties and affairs of the Agency in accordance with the policy laid down by the Agency; and

30 (b) may be known by such designation as the Agency may determine.

(2) The Agency must, with the approval of the Minister, appoint an individual to be the Chief Executive, and the Minister must consult the Public Service Commission before granting that approval.

(3) The Agency may remove the Chief Executive from office only with the approval of the Minister, and the Minister must consult the Public Service Commission before granting that approval.

(4) The terms and conditions of the Chief Executive's appointment are to be determined by the Agency.

(5) The Agency may appoint an individual to act temporarily as the Chief Executive during any period, or during all periods, when the Chief Executive —

(a) is absent from duty or Singapore; or

(b) is, for any reason, unable to perform the duties of the office.

Employees

39.—(1) The Agency may, from time to time, appoint and employ such employees as may be necessary for the effective performance of its functions.

(2) The Agency may fix the salary, wages and conditions of its employees insofar as they are not fixed by or under any Act or law.

Public servants

40.—(1) The Chief Executive, all members and employees of the Agency, all committee members, and any delegates and subdelegates of the Agency, are deemed to be public servants for the purposes of the Penal Code (Cap. 224).

(2) Every member, employee, delegate and subdelegate of the Agency, and the Chief Executive and every committee member is, in relation to his or her administration, assessment, collection and enforcement of payment of —

(a) any financial penalty imposed under section 48 or 64 of the Private Education Act (Cap. 247A); or

(b) any composition sum collected under this Act or section 67 of the Private Education Act,

taken to be public officers for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to each of these persons even though they are not or were not in the employment of the Government.

5 **Preservation of secrecy**

41.—(1) A member, an employee, a delegate or subdelegate of the Agency, the Chief Executive or a committee member, who has information in his or her capacity as such that would not otherwise be available to him or her, must not disclose that information to any person except —

- (a) in the performance of the Agency's functions;
- (b) with the prior authorisation from the Agency to do so;
- (c) for the purposes of any proceedings for an offence under this section or section 58, or any report of those proceedings;
- 15 (d) as required by an order of court;
- (e) in complying with the requirements in this Act for members to disclose interests; or
- 20 (f) as required of or allowed by the Agency, the Chief Executive, the member, employee, delegate or subdelegate of the Agency or the committee member, by or under this Act or any other Act.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Protection from personal liability

42. No liability shall lie against any member, any committee member, the Chief Executive or any employee, delegate or subdelegate of the Agency, or other person acting under the direction of the Agency, for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

- (a) the exercise or purported exercise of any power under this Act; or
- (b) the performance or purported performance of any function under this Act.

PART 6

5

FINANCIAL PROVISIONS

Financial year

43. The financial year of the Agency begins on 1 April of each year and ends on 31 March of the succeeding year except that the first financial year of the Agency begins on the date of commencement of this Act and ends on 31 March of the succeeding year. 10

Revenue and property of Agency

44.—(1) The funds and property of the Agency include —

- (a) all moneys paid to the Agency by way of grants, subsidies, donations, gifts and contributions for purposes of the Agency; 15
- (b) all moneys paid to, and all other moneys and property lawfully received by, the Agency for purposes of the Agency;
- (c) all fees and charges payable to the Agency under this Act or any other Act administered by the Agency; 20
- (d) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Agency under this Act or any other Act administered by the Agency;
- (e) all moneys borrowed by the Agency under this Act; 25
- (f) the Skills Development Fund; and
- (g) all accumulations of income derived from any property or money referred to in paragraphs (a) to (f).

(2) The Skills Development Fund must be managed and administered by the Agency separately from the other funds and property of the Agency.

Bank accounts

5 **45.**—(1) The Agency must open and maintain one or more accounts with such bank or banks as the Agency thinks fit.

(2) Every such account may only be operated by a person who is authorised to do so by the Agency.

Financial accounts and records

10 **46.** The Agency must —

(a) keep proper accounts and records of its transactions and affairs; and

(b) do all things necessary to ensure that —

15 (i) all payments out of its moneys are correctly made and properly authorised; and

(ii) adequate control is maintained over the funds and property and assets of, or in the custody of, the Agency and over the expenditure incurred by the Agency.

Annual estimates

20 **47.**—(1) The Agency must, in every financial year, prepare or cause to be prepared, and must adopt —

25 (a) annual estimates of income and expenditure for the Skills Development Fund for the ensuing financial year in accordance with the Skills Development Levy Act (Cap. 306); and

(b) annual estimates of other income and expenditure of the Agency for the ensuing financial year.

30 (2) Supplementary estimates for the Skills Development Fund or other income and expenditure of the Agency may be adopted by the Agency where necessary.

(3) A copy of all annual estimates and supplementary estimates mentioned in subsections (1) and (2) must, upon their adoption by the Agency, be sent as soon as possible to the Minister.

Power of investment

48. The Agency may invest its moneys (except the Skills Development Fund) in accordance with the standard investment power of statutory bodies as defined in section 33A of the Interpretation Act (Cap. 1).

Issue of shares, etc.

49. As a consequence of —

- (a) the vesting of any property, rights or liabilities in the Agency under this Act; or
- (b) any capital injection or other investment by the Government in the Agency in accordance with any other written law,

the Agency must issue such shares or other securities to the Minister for Finance as that Minister may, from time to time, direct.

Borrowing power

50.—(1) The Agency cannot borrow for the performance of its functions under this Act or any other Act administered by the Agency except in accordance with this section.

(2) Subject to subsection (3), the Agency may raise loans by —

- (a) mortgage, overdraft or other means, with or without security;
- (b) charge, whether legal or equitable, on any property vested in the Agency or on any other revenue receivable by the Agency under this Act or any other written law; or
- (c) the creation and issue of debentures, bonds or any other instrument as the Minister may approve.

(3) The Agency may raise loans —

- (a) from the Government; or

(b) with the approval of the Minister, from another source, whether within or outside Singapore.

(4) For the purposes of this section, the power to raise loans includes the power to make any financial agreement whereby credit facilities are granted to the Agency for the purchase of goods, materials or things.

Appointment of auditor

51.—(1) The accounts of the Agency are to be audited by the Auditor-General, or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

(2) A person is not qualified for appointment as an auditor under subsection (1) unless the person is a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2).

(3) The remuneration of the auditor is to be paid out of the funds of the Agency.

Powers of auditor

52.—(1) The Agency must, as soon as practicable after the close of each financial year, prepare and submit the financial statements in respect of that year to the auditor of the Agency, who must audit and report on them.

(2) For the purpose of auditing and reporting on the financial statements submitted under subsection (1), the auditor of the Agency, or a person authorised by the auditor for that purpose (called in this section an authorised person), is entitled at all reasonable times —

(a) to full and free access to all accounting and other records relating, directly or indirectly, to the financial transactions of the Agency;

(b) to make copies of or extracts from any of those accounting and other records; and

(c) to require any person to furnish the auditor or authorised person with such information in the possession of that person or to which that person has access as the auditor considers

necessary for the purposes of the auditor's functions under this Act.

(3) A person —

- (a) who fails, without any reasonable cause, to comply with any requirement of the auditor of the Agency or an authorised person under subsection (2); or 5
- (b) who otherwise hinders, obstructs or delays the auditor or the authorised person in the performance of his or her functions or the exercise of his or her powers,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000. 10

Auditor's report

53.—(1) The auditor's report about the financial statements submitted under section 52(1) must state —

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Agency; 15
- (b) whether proper accounting and other records have been kept, including records of all assets of the Agency whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure, investment of moneys and the acquisition and disposal of assets by the Agency during the financial year have been in accordance with this Act; and 20
- (d) such other matters arising from the audit as the auditor considers should be reported.

(2) The auditor may at any other time report to the Minister through the Agency on any matter arising out of the performance of an audit under this Act. 25

Audited annual financial statements

54.—(1) The Agency must, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements, 30

signed by the Chairperson, together with a copy of the auditor's report under section 53(1).

(2) Where the Auditor-General is not the auditor of the Agency, a copy of the audited financial statements and any report made by the auditor under section 53(1) must be forwarded to the Auditor-General at the same time they are submitted to the Agency.

(3) The Minister must, as soon as practicable, cause a copy of the audited financial statements and of the auditor's report under subsection (1) to be presented to Parliament.

Annual and other reports of Agency

55.—(1) The Agency must, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Agency during the preceding financial year and containing such information relating to the proceedings and policy of the Agency as the Minister may, from time to time, direct.

(2) The Minister must, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Skills Development Fund to be audited separately

56. Sections 46 and 51 to 55 do not affect the requirements in sections 20 and 21 of, and the First Schedule to, the Skills Development Levy Act (Cap. 306) insofar as the requirements apply in relation to the Skills Development Fund.

PART 7

ADMINISTRATION AND ENFORCEMENT

Powers to verify information collected or for grants, etc.

57.—(1) The powers under this section may be exercised only for the purpose of inquiring into or ascertaining —

- (a) the truth or correctness of any statement made, or of any information given, by a person who applies or has applied for

an incentive, a grant or a loan from the Agency out of moneys not in the Skills Development Fund; or

- (b) whether any incentive, grant or loan from the Agency out of moneys not in the Skills Development Fund has been properly applied by the person to whom the incentive, grant or loan is given. 5

(2) The Agency, or an employee or agent of the Agency duly authorised by the Agency for the purposes of this section, may, at any reasonable time, do any of the following, without involving any search of any property or person: 10

- (a) enter any premises;
- (b) photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises;
- (c) require any person to furnish or grant access to, without charge, any document or information reasonably required for any purpose in subsection (1); 15
- (d) inspect and make copies of or take extracts from any such document;
- (e) take possession of such a document if, in the opinion of the Agency or the Agency's employee or agent — 20
 - (i) the inspection or copying of or extraction from the document cannot reasonably be performed without taking possession;
 - (ii) the document may be interfered with or destroyed unless possession is taken; or 25
 - (iii) the document may be required as evidence in any proceedings instituted or commenced for any of the purposes of, or in connection with, this Act;
- (f) require any person to complete and deliver any return specified within the time specified in the notice. 30

(3) The power to require a person to furnish any document or information under subsection (2)(c) includes the power —

- (a) to require the person, or any person who is or was an officer or employee of that person, to provide an explanation of the document or information;
- (b) if the document or information is not furnished, to require the person to state, to the best of the person's knowledge and belief, where it is; and
- (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Agency in legible form.

False or misleading information, statement or document, etc.

58.—(1) A person must not —

- (a) in relation to the person's application, or in support of an application by another, for any incentive, grant or loan from the Agency out of moneys not in the Skills Development Fund, make, or authorise the making of, a statement that the person knows to be false or misleading in any material particular;
- (b) in furnishing any information or any document required by the Agency under section 57, furnish any information or document that the person knows to be false or misleading in any material particular; or
- (c) intentionally alter, suppress or destroy any document or information which the person is required by the Agency under section 57 to furnish.

(2) A person who contravenes subsection (1) 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 12 months or to both.

(3) To avoid doubt, it is not a defence in any proceeding for an offence under subsection (2) for contravening subsection (1)(a) that the accused did not obtain any incentive, grant or loan from the Agency out of moneys not in the Skills Development Fund.

Penalty for obstructing Agency in carrying out its functions

59.—(1) A person must not obstruct or hinder a member or an employee or agent or a delegate of the Agency who is exercising any power or discharging any duty under this Act.

(2) A person who contravenes subsection (1) 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. 5

Composition of offences

60.—(1) The Chief Executive, or an employee of the Agency authorised in writing by the Agency, 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; 15

(b) \$2,000.

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

(3) All sums collected under this section are to be paid into the Consolidated Fund. 20

Offences by corporations

61.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that — 25

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind. 30

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation, or a member of a corporation whose affairs are managed by its members; or

5 (ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

10 (i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

15 (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

20 shall be guilty of that same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person
25 bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

30 (5) To avoid doubt, subsection (1) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes any person purporting to act in any such capacity; 5

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and 10

(b) the person’s reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

62.—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that — 15

(a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his or her actual or apparent authority; and 20

(b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person — 25

(a) who is —

(i) an officer of the unincorporated association or a member of its governing body;

(ii) a partner in the partnership; or

(iii) an individual who is involved in the management of the unincorporated association or partnership and who is in a position to influence the conduct of the 30

unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters V and VA of the Penal Code (Cap. 224); or

(b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

5

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

10

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

15

Service of documents

63.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

20

(a) by giving it to the individual personally;

(b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;

25

(c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;

(d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;

30

(e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(f) by sending it by email to the individual's last email address.

5 (3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

(a) by giving it to any partner or other similar officer of the partnership;

10 (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

(d) by sending it by email to the partnership's last email address.

15 (4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) may be served —

(a) by giving it to the body corporate's secretary or other similar officer, or the limited liability partnership's manager;

20 (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's registered office or principal office in Singapore;

(c) by sending it by fax to the fax number used at the body corporate's registered office or principal office in Singapore;
25 or

(d) by sending it by email to the body corporate's last email address.

(5) Service of a document under subsection (1) takes effect —

30 (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;

(b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person; and

- (c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered).
- (6) In this section, “document” includes a notice or an order permitted or required by this Act to be served. 5
- (7) However, this section does not apply to documents to be served in proceedings in court.
- (8) In this section —
- “business address” means —
- (a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or 10
 - (b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;
- “last email address” means — 15
- (a) the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act; or
 - (b) the last email address of the addressee concerned known to the person giving or serving the document; 20
- “residential address” means an individual’s usual or last known place of residence in Singapore.

Regulations

- 64.** The Agency may, with the approval of the Minister, make regulations prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act. 25

PART 8

TRANSFER OF UNDERTAKINGS TO AGENCY

Interpretation of this Part

65. In this Part, unless the context otherwise requires —

5 “asset”, in relation to a transferor, means property of any kind
(whether tangible or intangible, whether arising from,
accruing under, created or evidenced by or the subject of,
an instrument or otherwise and whether actual or contingent)
10 of the transferor on the eve of the transfer date and includes,
without limitation, any —

(a) legal or equitable interest in real or personal property,
whether situated in Singapore or elsewhere;

(b) chose in action;

(c) money or securities;

15 (d) plant and equipment, whether situated in Singapore or
elsewhere;

(e) intellectual property;

(f) infrastructure, whether situated in Singapore or
elsewhere;

20 (g) records; and

(h) right;

“Council for Private Education” or “CPE” means the Council for
Private Education established under section 3 of the Private
Education Act (Cap. 247A);

25 “liability”, in relation to a transferor, means any liability, duty or
obligation (whether actual or contingent, liquidated or
unliquidated, and whether owed alone or jointly or jointly
and severally with any other person) of the transferor on the
eve of the transfer date;

30 “private education function” means any function of the Council
for Private Education under the Private Education Act;

“records”, in relation to a transferor, means registers, papers, documents, minutes, receipts, books of account and other record, however compiled, recorded or stored, of that transferor existing on the eve of the transfer date;

“right”, in relation to a transferor, means any right, power, privilege or immunity of the transferor on the eve of the transfer date;

“transferor” means —

(a) the Council for Private Education; or

(b) the Singapore Workforce Development Agency;

“transferring SWDA employee” means an employee of the Singapore Workforce Development Agency who, on the eve of the transfer date, is in any of the following departments of that Agency:

(a) the Institute of Adult Learning;

(b) the Skills Development Group;

(c) the Training Partners Group;

(d) the Business Technology Group;

(e) the Corporate Group (SkillsFuture);

(f) the Integrated Business Services Division;

(g) the Shared Services Management Division.

Transfer of undertakings to Agency

66.—(1) On the transfer date, the following assets and liabilities are transferred to the Agency:

(a) all assets and liabilities of the Council for Private Education;

(b) such assets and liabilities of the Singapore Workforce Development Agency that relate solely or mainly to the functions of the following departments of that Agency:

(i) the Institute of Adult Learning;

(ii) the Skills Development Group;

- (iii) the Training Partners Group;
- (iv) the Business Technology Group;
- (v) the Corporate Group (SkillsFuture);
- (vi) the Integrated Business Services Division;
- 5 (vii) the Shared Services Management Division.

(2) When any assets or liabilities are transferred under subsection (1), the following provisions have effect:

- 10 (a) the assets of the transferor that are the subject of the transfer vest in the Agency by virtue of this section and without the need for any further conveyance, transfer, assignment or assurance;
- (b) the liabilities of the transferor that are the subject of the transfer become by virtue of this section the liabilities of the Agency;
- 15 (c) all legal or other proceedings relating to those assets or liabilities that are started before the transfer date by or against the transferor or a predecessor of the transferor and pending immediately before that date are taken to be proceedings pending by or against the Agency;
- 20 (d) any legal or other proceedings relating to those assets or liabilities which could have been started immediately before the transfer date by or against the transferor or a predecessor of the transferor may be started by or against the Agency;
- 25 (e) a judgment or order of a court or other tribunal obtained before the transfer date by or against the transferor or a predecessor of the transferor relating to those assets or liabilities may be enforced by or against the Agency;
- 30 (f) any document relating to legal or other proceedings relating to those assets or liabilities that has been served on or by a transferor or a predecessor of the transferor before the transfer date is taken, where appropriate, to have been served on or by the Agency;

- (g) any act, matter or thing done or omitted to be done before the transfer date in relation to those assets or liabilities by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Agency; 5
 - (h) a reference in any written law, in any instrument made under any Act, in any contract, agreement, arrangement or undertaking, or in any document of any kind to the transferor or a predecessor of the transferor, to the extent to which the reference relates to those assets or liabilities, is taken to be, or include, a reference to the Agency. 10
- (3) The operation of this section does not —
- (a) constitute a breach of, or default under, any Act or other law or otherwise a civil wrong or criminal wrong; 15
 - (b) constitute a breach of duty of confidence (whether arising by contract, in equity, by custom, or in any other way);
 - (c) constitute a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities or the disclosure of any information; 20
 - (d) terminate an agreement or fulfil any condition that allows a person to terminate any agreement or obligation, or gives rise to any right or remedy in respect of any agreement or obligation;
 - (e) cause any contract or instrument to be void or otherwise unenforceable; 25
 - (f) frustrate any contract or releasing any surety or other obligor wholly or in part from any obligation;
 - (g) release a surety or other obligee wholly or in part from an obligation; or 30
 - (h) constitute an event of breach of, or default under, any contract or other instrument.
- (4) No attornment to the Agency by a lessee from a transferor is required.

Transferring secondments and SWDA employees to Agency

67.—(1) On the transfer date, every transferring SWDA employee —

(a) stops being an employee of the Singapore Workforce Development Agency; and

(b) is each transferred to the service, and becomes an employee, of the Agency on terms no less favourable than those enjoyed by the employee on the eve of the transfer date.

(2) The transfer of a transferring SWDA employee to the Agency —

(a) does not interrupt continuity of service;

(b) does not constitute a retrenchment or redundancy; and

(c) does not entitle any employee so transferred to any payment or other benefit merely because he or she stops being employed by the Singapore Workforce Development Agency.

(3) A certificate purporting to be signed by the Minister certifying that an individual named in the certificate was, with effect from the transfer date, employed by virtue of this section by the Agency, is admissible in evidence in any proceedings as evidence of the matters stated in it.

(4) Nothing in this section prevents —

(a) any of the terms and conditions of employment of an individual transferred under this section from being altered by or under any law, award or agreement with effect from any time after the transfer date; and

(b) an individual transferred under this section from resigning from the Agency at any time after the transfer date, in accordance with the terms and conditions of his or her employment then applicable.

(5) To avoid doubt, section 18A of the Employment Act (Cap. 91) does not apply to the transfer under this Part of any SWDA employee to the Agency.

(6) On the transfer date, every public officer whose services are made available (or is seconded) to the Council of Private Education under an agreement or arrangement that —

(a) is between the Government and the Council for Private Education; and

5

(b) is in force on the eve of the transfer date,
continues on secondment to the Agency.

General preservation of employment terms

68.—(1) The service with the Agency of an SWDA employee transferred under section 67 (called in this section a transferred employee) must be regarded for all purposes as having been continuous with the service of the employee with the Singapore Workforce Development Agency immediately before the transfer date.

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(2) On the transfer date —

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(a) a transferred employee retains all accrued rights as if employment with the Agency were a continuation of employment with the Singapore Workforce Development Agency;

(b) the liabilities of the Singapore Workforce Development Agency relating to the transferred employee's accrued rights to annual, sick, maternity or other leave and superannuation become the liabilities of the Agency; and

20

(c) a reference to the Singapore Workforce Development Agency in the contract of employment that had effect in relation to the transferred employee immediately before the transfer date is taken to be, or includes, a reference to the Agency.

25

(3) For any conduct whilst a transferred employee was employed by the Singapore Workforce Development Agency which would have rendered the employee liable to be reprimanded, reduced in rank, retired, dismissed or punished by the Singapore Workforce Development Agency, the Agency may —

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(a) carry on and complete any disciplinary proceedings started by the Singapore Workforce Development Agency against the transferred employee if those proceedings are pending on the eve of the transfer date; and

5 (b) reprimand, reduce in rank, retire, dismiss or otherwise punish a transferred employee, as if the employee were not transferred.

(4) Where, on the eve of the transfer date, any matter about the conduct of a transferred employee whilst employed by the Singapore Workforce Development Agency —

(a) was in the course of being heard or investigated by a transferor's committee acting under due authority; or

15 (b) had been heard or investigated by a committee of the Singapore Workforce Development Agency acting under due authority but no order, ruling or direction had been made,

that committee must complete the hearing or investigation and make such order, ruling or direction as it could have made under the authority vested in it before that date, and that order, ruling or direction is to be regarded as an order, ruling or direction of the Agency.

(5) Until such time as conditions of employment are drawn up by the Agency for the transferred employees, every transferred employee is to be regarded as being employed by the Agency on the same conditions of employment applicable to the employee on the eve of the transfer date as the Singapore Workforce Development Agency.

(6) Any condition of employment relating to the length of service with the Agency must recognise the length of service of the employees so transferred while in the employment of the Singapore Workforce Development Agency (including any previous service of the employee taken to be service with the Singapore Workforce Development Agency) to be service with the Agency.

(7) Neither the chief executive of the CPE nor the chief executive of the SWDA is by operation of this Part transferred to the position of Chief Executive of the Agency unless the Agency appoints him or her to that position under section 38.

(8) Nothing in section 67(6) —

- (a) breaks the continuity of service of the public officer whose secondment continues with the Agency because of that provision; or
- (b) affects any rights, powers or immunities that such a public officer has, or the extent to which such a public officer is subject to obligations or liabilities in relation to discipline, by virtue of holding the office or position to which the officer is seconded.

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Transfer of records

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69. From the transfer date, the following records become the records of the Agency:

- (a) all records of the Council for Private Education;
- (b) every record, or part of any record, of the Singapore Workforce Development Agency that relates to —
 - (i) any assets or liabilities transferred to the Agency under section 66; or
 - (ii) any transferring SWDA employee.

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Confirmation of transfers

70.—(1) If any dispute arises —

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- (a) as to whether an asset or a liability, or an employee or a record is transferred under section 66, 67 or 69; or
- (b) as to whether any, or any part of any, contract or document relates to an asset or a liability, or an employee or a record, transferred under section 66, 67 or 69,

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the Minister for Finance may determine the matter and is to provide the concerned parties with written notice of that determination.

(2) The determination of the Minister for Finance under subsection (1) is final and binding on the transferor concerned and the Agency.

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PART 9

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS

*Division 1 — Private Education Act***Consequential amendments to Private Education Act**

71.—(1) The Private Education Act (Cap. 247A, 2011 Ed.) is amended —

(a) by deleting the words “to establish and incorporate the Council for Private Education, to provide for its functions, duties and powers,” in the long title;

(b) by inserting, immediately after the definition of “advertisement” in section 2, the following definition:

“ “Agency” means the SkillsFuture Singapore Agency established by section 3 of the SkillsFuture Singapore Agency Act 2016;”;

(c) by deleting the definitions of “Chairman”, “Chief Executive” and “committee member” in section 2 and substituting the following definition:

“ “Chief Executive” means the Chief Executive of the Agency appointed under section 38 of the SkillsFuture Singapore Agency Act 2016 and includes any person acting in that capacity;”;

(d) by deleting the definitions of “Council” and “member” in section 2;

(e) by deleting the word “Council” in the definition of “inspector” in section 2 and substituting the word “Agency”;

(f) by inserting, immediately after the words “provides private education” in paragraph (a) of the definition of “private education institution” in section 2, the words “whether in Singapore or elsewhere”;

(g) by deleting the word “Council” wherever it appears in the following provisions and substituting in each case the word “Agency”:

Section 34(4), (5), (6), (8), (9) and (10)

Section 35(1), (2) and (3)

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Section 36(1), (2), (3) and (4)

Section 37(1), (2), (3) and (4)

Section 38(1), (2), (3), (4) and (5)

Section 39(1), (2) and (3)

Section 40(1), (2) and (4)

10

Section 41(1)(b), (c), (d), (e) and (f) and (2)

Section 42(1) and (2)

Section 43(1), (4), (5), (6), (7), (8), (9), (10) and (12)(a)

Section 44(1)(b) and (2)

Section 45(1) and (2)

15

Section 47(1), (2), (3) and (4)

Section 48(1), (2), (3), (4), (5) and (6) and section heading

Section 49(1), (2), (3), (4), (5), (6) and (7)(b) and section heading

Section 50(1), (2) and (4)

20

Section 52(1)

Section 53(1)(a), (b) and (d), (3)(b) and (5)(a) and (b)

Section 56(1) and (2)

Section 57(2)(b)

Section 59(1), (2), (3), (4) and (5)

25

Section 60(1)(c), (2), (5) and (6)

Section 61(1)(c)

Section 62(1), (2), (3), (4) and (5) and section heading

Section 63(1) and (4)

Section 64(3), (4), (5), (6), (7) and (8) and section heading

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Section 69(1)(a)(v)

Section 71(1) and (2)(e) and (j); and

(h) by repealing the Second and Third Schedules.

(2) Part II of the Private Education Act is repealed and the following
5 Part substituted therefor:

“PART II

ADMINISTRATION OF ACT

Agency to administer Act

3. The Agency is responsible for the administration and
10 enforcement of this Act.

Functions of Agency

4.—(1) Without prejudice to section 5 of the SkillsFuture
Singapore Agency Act 2016, it is the function of the Agency
under this Act —

- 15 (a) to register persons who provide or offer to provide
private education in Singapore or elsewhere, and to
assess and reassess them from time to time;
- (b) to otherwise regulate persons who offer or provide any
20 service relating, directly or indirectly, to private
education;
- (c) to promote and facilitate the development of the private
education sector in Singapore;
- (d) to establish or support accreditation or certification
25 schemes and other measures to enhance the standards of
the private education industry or the education industry
in Singapore generally;
- (e) to facilitate the improvement of private education in
Singapore of these courses; and
- 30 (f) to facilitate public availability of meaningful and
accurate information relating to —

(i) registered private education institutions and persons regulated under this Act, including their compliance with the requirements of this Act;

(ii) access of students or prospective students to dispute resolution processes; and

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(iii) the private education industry in Singapore.

(2) In discharging its functions under this Act, the Agency is to have regard —

(a) to the financial capability, and the adequacy and quality of the staffing and resources, of any registered private education institution to achieve the stated outcomes for the students who take the courses at the institution;

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(b) to ensuring that minimum standards are maintained by providers of private education that the Agency has registered;

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(c) to securing the availability of meaningful and accurate information to the public about —

(i) courses offered by registered private education institutions and the conditions attaching to enrolment in the courses, to enable prospective students to make informed decisions about enrolling in the courses; and

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(ii) registered private education institutions and their compliance with the requirements of this Act; and

(d) to ensuring access of students to timely and appropriate dispute resolution processes, in particular overseas students, having regard especially to their status as persons only temporarily in Singapore.

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Committee for Private Education

5. Without prejudice to section 34 of the SkillsFuture Singapore Agency Act 2016, the Agency may appoint a committee, to be known as the Committee for Private

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Education, to which the Agency may delegate the exercise of any of its powers under this Act.

Financial penalties, etc., payable to Consolidated Fund

6.—(1) All financial penalties imposed under section 48 or 64, and all composition sums collected under section 67, are to be paid into the Consolidated Fund.

(2) All fees and other moneys collected under this Act are to be paid to the Agency.”.

Related amendments to Private Education Act

72. The Private Education Act (Cap. 247A, 2011 Ed.) is amended —

(a) by inserting, immediately after the words “or any part thereof” in section 41(1)(c), the words “or before relocating of the premises of the private education institution”;

(b) by deleting the words “any fee” in section 43(12)(b) and substituting the words “any money”;

(c) by deleting the words “person’s expense” in section 47(1) and substituting the words “person’s cost and expense”;

(d) by deleting the words “or (3)” in section 53(1)(a)(vii); and

(e) by deleting the words “course fees” in section 71(2)(f) and substituting the words “course money”.

Saving and transitional provisions

73.—(1) Every private education institution that —

(a) is registered under the Private Education Act (Cap. 247A) before the date of commencement of section 71; and

(b) is in force on that date,

is to continue as if registered by the SkillsFuture Singapore Agency under the Private Education Act.

(2) Where —

- (a) an application or other document is lodged for registration, approval or permission under the Private Education Act before the date of commencement of section 71; and
 - (b) the Council for Private Education had not made, before that date, a decision regarding the application or other document,
- the application or other document is, where applicable, deemed to be an application or a document lodged for registration, approval or permission with the SkillsFuture Singapore Agency under the Private Education Act as amended by this Act.

(3) Every order, notice or direction given by the Council for Private Education under any provision of the Private Education Act before the date of commencement of section 71 affecting —

- (a) a registered private education institution;
- (b) a manager of, or teacher deployed or to be deployed by, a registered private education institution; or
- (c) the provision of private education by a registered private education institution,

is to continue, and may be completed, as if the SkillsFuture Singapore Agency gave the order, notice or direction under that provision of the Private Education Act as amended by this Act.

(4) All security deposits deposited with, and the benefits of all guarantees given, to the Council for Private Education before the date of commencement of section 71 and not forfeited before that date are, without further assurance, transferred and deemed deposited with or given to the SkillsFuture Singapore Agency.

Division 2 — Skills Development Levy Act

Consequential amendments to Skills Development Levy Act

74.—(1) The Skills Development Levy Act (Cap. 306, 2012 Ed.) is amended —

- (a) by deleting the definition of “Agency” in section 2 and substituting the following definition:

“ “Agency” means the SkillsFuture Singapore Agency established by section 3 of the SkillsFuture Singapore Agency Act 2016;”;

(b) by deleting paragraph (c) of section 5(2);

(c) by deleting subsection (1) of section 8;

(d) by inserting, immediately after the words “paid into the” in section 17(2), the word “Consolidated”; and

(e) by repealing sections 22 and 23.

(2) Section 12 of the Skills Development Levy Act is repealed and the following section substituted therefor:

“False or misleading information, statement or document, etc.

12.—(1) A person must not in relation to the person’s application, or in support of an application by another, for any incentive, grant or loan from the Agency out of moneys in the Fund, make, or authorise the making of, a statement that the person knows to be false or misleading in any material particular.

(2) A person who contravenes subsection (1) 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 12 months or to both.

(3) To avoid doubt, it is not a defence in any proceeding for an offence under subsection (2) that the accused did not obtain any incentive, grant or loan from the Agency out of moneys in the Fund.”.

(3) Section 15 of the Skills Development Levy Act is repealed and the following section substituted therefor:

“Powers to verify information and call for returns

15.—(1) The powers under this section may be exercised only for the purpose of inquiring into or ascertaining —

(a) the liability of a person to pay the levy, or whether the levy has been duly paid;

(b) the truth or correctness of any statement made, or of any information given, by a person who applies or has applied for an incentive, a grant or a loan from the Agency out of moneys in the Fund; or

(c) whether any incentive, grant or loan from the Agency out of moneys in the Fund has been properly applied by the person to whom the incentive, grant or loan is given. 5

(2) The Agency, or an employee or agent of the Agency duly authorised by the Agency for the purposes of this section, may, at any reasonable time, do any of the following, without involving any search of any property or person: 10

(a) enter any premises;

(b) photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises; 15

(c) require any person in the premises to furnish or grant access to, without charge, any document or information reasonably required for any purpose in subsection (1);

(d) inspect and make copies of or take extracts from any such document; 20

(e) take possession of such a document if, in the opinion of the Agency or the Agency's employee or agent —

(i) the inspection or copying of or extraction from the document cannot reasonably be performed without taking possession; 25

(ii) the document may be interfered with or destroyed unless possession is taken; or

(iii) the document may be required as evidence in any proceedings instituted or commenced for any of the purposes of, or in connection with, this Act; 30

(f) require any person to furnish, within the time specified in the notice, any information that may be required, or to complete and deliver any return specified.

(3) The power to require a person to furnish any document or information under subsection (2)(c) includes the power —

- (a) to require the person, or any person who is or was an officer or employee of that person, to provide an explanation of the document or information;
- (b) if the document or information is not furnished, to require the person to state, to the best of the person's knowledge and belief, where it is; and
- (c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Agency in legible form.”.

Division 3 — Other Acts

Consequential amendments to Income Tax Act

75. Section 14R(6) of the Income Tax Act (Cap. 134, 2014 Ed.) is amended —

- (a) by inserting, immediately before the definition of “central hirer”, the following definition:

““accredited”, in relation to a course, means accredited —

- (a) by the Singapore Workforce Development Agency before the date of commencement of section 9 of the Singapore Workforce Development Agency (Amendment) Act 2016; or
- (b) by the SkillsFuture Singapore Agency on or after that date;”;

- (b) by deleting the words “by the Singapore Workforce Development Agency” in paragraph (a)(i) of the definition of “qualifying training expenditure”.

Consequential amendments to Institute of Technical Education Act

76. The Institute of Technical Education Act (Cap. 141A, 1993 Ed.) is amended —

- (a) by deleting paragraph (a) of section 5 and substituting the following paragraph: 5

“(a) the provision and conduct of technical education and training, and further education programs, for persons employed in or intending to be employed in commerce or industry;”;

- (b) by deleting paragraphs (b) and (c) of section 5;

- (c) by deleting paragraphs (d), (e) and (f) of section 5 and substituting the following paragraphs:

“(d) the provision of consultancy services, and the accrediting of programs and qualifications, for training and education in technical skills; and 15

(e) cooperating and collaborating with the SkillsFuture Singapore Agency established by section 3 of the SkillsFuture Singapore Agency Act 2016, and the Singapore Workforce Development Agency established by section 3 of the Singapore Workforce Development Agency Act (Cap. 305D), in the discharge of their respective functions under those Acts.”; 20 25

- (d) by deleting paragraph (n) of section 6 and substituting the following paragraph:

“(n) undertake surveys or carry out research about teaching and learning practices;”;

- (e) by deleting paragraphs (b) and (c) of section 44(2). 30

Consequential amendment to Standards, Productivity and Innovation Board Act

77. Section 6(1) of the Standards, Productivity and Innovation Board Act (Cap. 303A, 2002 Ed.) is amended by inserting,
 5 immediately after paragraph (i), the following paragraph:

“(ia) to cooperate and collaborate with the SkillsFuture Singapore Agency established by section 3 of the SkillsFuture Singapore Agency Act 2016, and the
 10 Singapore Workforce Development Agency established by section 3 of the Singapore Workforce Development Agency Act (Cap. 305D), in the discharge of their respective functions under those Acts;”.

Consequential amendments to other Acts

15 78.—(1) Item 9A of the Schedule to the Accounting Standards Act (Cap. 2B, 2008 Ed.) is deleted and the following item substituted therefor:

“9A. SkillsFuture Singapore Agency	SkillsFuture Singapore Agency Act 2016”.
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20 (2) Item 16 of the Schedule to the Attorney-General (Additional Functions) Act 2014 (Act 25 of 2014) is deleted and the following item substituted therefor:

“16. SkillsFuture Singapore Agency”.

25 (3) Paragraph 6 of the First Schedule to the Central Provident Fund Act (Cap. 36, 2013 Ed.) is amended by deleting item (11) and substituting the following item:

“(11) SkillsFuture Singapore Agency.”.

(4) Item 7 of the Schedule to the Official Secrets Act (Cap. 213, 2012 Ed.) is deleted and the following item substituted therefor:

30 “7. SkillsFuture Singapore Agency”.

(5) Item 4A of Part I of the Schedule to the Statutory Bodies and Government Companies (Protection of Secrecy) Act (Cap. 319, 2004 Ed.) is deleted and the following item substituted therefor:

“4A. SkillsFuture Singapore Agency	SkillsFuture Singapore Agency Act 2016”.	5
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(6) Item 9A of the Schedule to the Statutory Corporations (Contributions to Consolidated Fund) Act (Cap. 319A, 2004 Ed.) is deleted and the following item substituted therefor:

“9A. SkillsFuture Singapore Agency	SkillsFuture Singapore Agency Act 2016”.	10
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EXPLANATORY STATEMENT

This Bill seeks to establish the SkillsFuture Singapore Agency (the Agency) and to make consequential and related amendments to certain other Acts.

Part 1 introduces the fundamental concepts used in the Bill.

Part 2 establishes the Agency and sets out its functions and powers.

Part 3 deals with the constitution of the Agency.

Part 4 provides for decision-making by the Agency.

Part 5 deals with personnel matters.

Part 6 sets out the financial provisions of the Agency.

Part 7 provides for enforcement powers necessary for the administration of the Bill, as well as a variety of general provisions.

Part 8 contains provisions that transfer the relevant undertakings from the Singapore Workforce Development Agency (SWDA) and the Council of Private Education (CPE) to the Agency.

Part 9 makes consequential and related amendments to other Acts.

PART 1

PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 is a general definition provision. It contains definitions of terms used in several Parts of the Bill.

PART 2

ESTABLISHMENT, FUNCTIONS AND POWERS OF AGENCY

Clause 3 establishes the SkillsFuture Singapore Agency.

Clause 4 defines the nature and legal capacity of the Agency. The Agency is a body corporate with perpetual succession, and proceedings may be taken by or against the Agency in its corporate name. The Agency may also operate under a trading name approved by the Minister.

Clause 5 describes the functions of the Agency.

Clause 6 provides the Agency with broad powers to do all things necessary to perform its functions.

Clause 7 provides the Minister with power to give directions of a general nature to the Agency. This clause also provides for the Minister to have access to information in the possession of the Agency.

Clause 8 confers on the Agency the exclusive right to the use of one or more symbols or representations it selects or devise, and to display or exhibit those symbols or representations in connection with the Agency's activities or affairs.

PART 3

CONSTITUTION AND MEMBERSHIP OF AGENCY

Clause 9 deals with the membership of the Agency. It is to consist of at least 9 and not more than 15 members. One of those members may be the Chief Executive.

Clause 10 provides for the appointment of Agency members by the Minister charged with the responsibility for the Agency.

Clause 11 provides that in appointing the members of the Agency, the Minister must have regard to whether the members of the Agency will collectively possess the appropriate knowledge, skills, and experience to assist the Agency to perform its functions effectively.

However, the clause does disqualify certain individuals from being members of the Agency.

Clause 12 provides for the appointment and tenure of a Chairperson and Deputy Chairperson from among members appointed.

Clause 13 deals with premature vacancies occurring in the office of any member of the Agency and empowers the Minister to appoint an individual to fill the vacancy and hold that office for the remainder of the term for which the vacating member was appointed.

Clause 14 provides for the appointment of an acting Chairperson and acting members to act temporarily as the Chairperson of the Agency or member (as the case may be) during any period, or during all periods, when the Chairperson or member is absent from duty or Singapore, or is, for any reason, unable to perform the duties of the office.

Clause 15 provides that the Minister has power, at any time and without giving any reason, to remove a member of the Agency from office.

Clause 16 deals with resignation from office by a member of the Agency.

Clause 17 provides that the powers and functions of the Agency are not affected merely because of any vacancy in the membership of the Agency, or of any defect or irregularity about the appointment of a member, or of the failure by a member or the Agency to disclose a conflict of interest as per the requirements in clauses 21 to 25. The acts of an individual as a member of the Agency are not to be affected merely because of some defect or irregularity existing in the appointment or continuance in office of the individual purporting to be a member of the Agency, or in the case of an individual acting in the capacity of the Chairperson, member or Chief Executive, because the occasion for the individual so acting, or for his or her appointment, had not arisen or had ended.

Clause 18 provides that unless earlier vacated, each member of the Agency holds office for a period of 3 years or any shorter period specified in the instrument of appointment.

Clause 19 provides that the members of the Agency may be paid, out of the funds of the Agency, such salaries, fees and allowances as the Minister from time to time determines.

Clause 20 outlines the circumstances in which the office of a member may become vacant.

Clause 21 contains definitions relevant for the duties of members on disclosure of interests.

Clause 22 imposes a duty on a member who is interested in a relevant matter relating to the Agency to disclose details of the interest as soon as practicable after the member becomes aware that he or she is interested.

Clause 23 sets out how that disclosure of interest is to be done and to whom.

Clause 24 sets out the consequences of being interested in a relevant matter. A member of the Agency who is interested in a relevant matter relating to the Agency cannot vote or take part in any discussion or decision of the Agency or any committee relating to the matter, or otherwise participate in any activity of the Agency that relates to the matter, and must withdraw from any meeting of the Agency or committee during the consideration or discussion relating to the matter if the Chairperson or member presiding at the meeting so requests. The member so interested also must not sign any document relating to the entry into a transaction or the initiation of the matter, and is to be disregarded for the purpose of forming a quorum for that part of a meeting of the Agency or a committee during which a discussion or decision relating to the matter occurs or is made.

Clause 25 sets out the consequences of failure to disclose interests.

PART 4

DECISION-MAKING BY AGENCY

Clause 26 provides that the Agency must determine its own meeting procedures to the extent they are not fixed by the Bill.

Clause 27 requires notice of meetings of the Agency to be given.

Clause 28 sets out the method of holding meetings. These can be face-to-face meetings with members physically gathered at a place, or by means of audio, audio and visual, or electronic communication technology such as by telephone or closed-circuit television. However, if technology is used, and a face-to-face meeting is to be dispensed with, all of the members who wish to participate in the meeting must have access to the technology needed to participate in the meeting, and a quorum of members must be able to simultaneously communicate with each other throughout the meeting.

Clause 29 prescribes the quorum to be one-third the number of members.

Clause 30 provides for presiding at meetings.

Clause 31 specifies the process of voting at an Agency meeting. A member present at a meeting of the Agency is presumed to have agreed to, and to have voted in favour of, a resolution of the Agency unless he or she expressly dissents from or votes against the resolution at the meeting. Abstentions are thus impermissible.

Clause 32 provides for decision-making by resolutions through circulation without a meeting. This clause provides that a resolution in writing signed or otherwise approved by the majority of the Agency members has the same effect as if it had been passed at a meeting of the Agency.

Clause 33 provides the process for execution of documents by the Agency.

Clause 34 empowers the Agency, by resolution, to appoint such number of committees as it thinks fit for purposes which, in the opinion of the Agency, would be better regulated and managed by means of such committees.

Clause 35 provides for the necessary modifications for section 17 (on validity of acts), and sections 21 to 25 (on disclosure of interests) to apply to committees and committee members.

Clause 36 allows the Agency to delegate some of its functions or powers, either generally or specially, by resolution and written notice, to a member of the Agency, the Chief Executive or any employee of the Agency (including persons on secondment to the Agency or on a contract for service), a committee, a wholly-owned subsidiary company of the Agency or a contractor of the Agency. The delegation may authorise subdelegation to appropriately qualified employees.

Clause 37 provides the powers of the delegate and subdelegate, and what a delegate and subdelegate may do.

PART 5

PERSONNEL MATTERS

Clause 38 provides for the appointment of a Chief Executive of the Agency by the Agency, with the approval of the Minister. The Agency may also appoint an individual to act temporarily as the Chief Executive during any period, or during all periods, when the Chief Executive is absent from duty or Singapore, or is, for any reason, unable to perform the duties of the office.

Clause 39 empowers the Agency to appoint and employ such employees as may be necessary for the effective performance of its functions under the Bill or any other Act administered by the Agency.

Clause 40 provides that the Chief Executive, and all members, employees, delegates and subdelegates of the Agency, and all its committee members, are deemed to be public servants for the purposes of the Penal Code (Cap. 224).

For the members, officers, employees, delegates and subdelegates of the Agency and its committee members who will be involved in the administration, assessment, collection and enforcement of payment of any financial penalty imposed under section 48 or 64 of the Private Education Act (Cap. 247A), or any composition sum collected under section 67 of the Private Education Act or the Bill, they will be treated as public officers for the purposes of the Financial Procedure Act (Cap. 109). Those moneys are public moneys that must be accounted for in the Consolidated Fund. Section 20 of the Financial Procedure Act (disciplinary punishment for loss of public moneys, etc.) applies to these persons of the Agency even though they are not or were not in the employment of the Government.

Clause 41 creates an offence where a member, the Chief Executive or an employee, a delegate and subdelegate or a member of a committee, who has information in his or her capacity as such that would not otherwise be available to him or her, discloses that information to any person otherwise than in the exceptions in the clause.

Clause 42 provides for the protection from liability of any member, committee member, the Chief Executive, any employee, delegate or subdelegate of the Agency, or any other person acting under the Agency's direction, for performing in good faith and with reasonable care, functions under the Bill.

PART 6

FINANCIAL PROVISIONS

Clause 43 prescribes the financial year of the Agency.

Clause 44 sets out the revenue and property of the Agency, among which is the Skills Development Fund, which the Agency must administer in accordance with the Skills Development Levy Act (Cap. 306) and separately from all its other properties.

Clause 45 requires the Agency to open and maintain one or more bank accounts to be operated only by persons duly authorised by the Agency.

Clause 46 further requires the Agency to keep proper accounts and records of its transactions and affairs, and to do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised, and that adequate control is maintained over the property and assets of, or in the custody of, the Agency, and over the expenditure incurred by the Agency. The clause does not apply in respect of the Skills Development Fund as there are specific provisions in the Skills Development Levy Act covering this aspect.

Clause 47 concerns budgeting. The clause requires the Agency to prepare annual estimates of income and expenditure in respect of each financial year and supplementary estimates wherever necessary. Separate annual estimates must be prepared for the Skills Development Fund.

Clause 48 confers on the Agency the standard power of investment of moneys as defined in section 33A of the Interpretation Act (Cap. 1), except with regard to the Skills Development Fund. The investment of moneys in that Fund is governed by the Skills Development Levy Act.

Clause 49 requires the Agency to issue shares to the Minister for Finance where required, as a consequence of the vesting of any property, rights or liabilities in the Agency under the Bill or any capital injection or other investment by the Government in the Agency.

Clause 50 sets out the borrowing powers of the Agency.

Clause 51 provides that the accounts of the Agency are to be audited by the Auditor-General or another auditor who is appointed annually by the Minister in consultation with the Auditor-General.

Clause 52 outlines the standard powers of auditors of statutory boards.

Clause 53 deals with the auditor's report.

Clause 54 requires the Agency to, as soon as its accounts and financial statements have been audited, send to the Minister a copy of the audited financial statements, signed by the Chairperson, together with a copy of the auditor's report.

Clause 55 further requires the Agency to, as soon as practicable after the end of each financial year, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Agency during the preceding financial year and containing such information relating to the proceedings and policy of the Agency as the Minister may, from time to time, direct.

The Minister must, as soon as practicable, cause a copy of every such report to be presented to Parliament.

Clause 56 requires the Skills Development Fund to be audited separately according to the Skills Development Levy Act.

PART 7

ADMINISTRATION AND ENFORCEMENT

Clause 57 confers on the Agency powers, without involving any search of any property or person, at any reasonable time to enter any premises, to photograph or film, or make audio recordings or make sketches of, any part of the premises, to require any person to furnish or grant access, without charge, to any document or information, to inspect and make copies of or take extracts from the documents, and to require returns to be completed and delivered.

The Agency also has the power to take possession of documents if the inspection or copying of or extraction from a document cannot reasonably be performed without taking possession, the document may be interfered with or destroyed unless possession is taken, or the document may be required as evidence in any proceedings instituted or commenced for any of the purposes of, or in connection with, the Bill.

However, these powers may be exercised only for the purpose of inquiring into or ascertaining the truth or correctness of any statement made, or of any information given, by a person who applies or has applied for an incentive, a grant or a loan from the Agency out of moneys not in the Skills Development Fund, or whether any grant or loan from the Agency out of moneys not in the Skills Development Fund has been properly applied by the person to whom the grant or loan is given.

There are similar powers in the Skills Development Levy Act in relation to grants or loans out of moneys in the Skills Development Fund.

Clause 58 creates the offence of knowingly providing false information in relation to an application for any incentive, grant or loan from the Agency out of moneys not in the Skills Development Fund, or furnishing any information or any document where required by the Agency under clause 57 that the person knows to be false or misleading in any material particular.

Clause 59 sets out the offence of obstructing or hindering a member or an employee of the Agency who is exercising any power or discharging any duty under the Bill.

Clause 60 allows the Agency, or any authorised officer authorised in writing by the Agency, to compound any offence under the Bill that is prescribed as a compoundable offence.

Clause 61 deals with corporate offenders and for attributing criminal liability to officers of corporate entities for offences committed by their entities. Corporations like companies can be held directly liable for the conduct and can be found guilty of, and punished for, the commission of an offence. As a separate legal entity, liability for the offence is imposed on the corporation itself and is not generally attributed to its officers and employees unless there is a provision like the clause. This standard provision in many laws has been redrafted here consistent with the modern Singapore drafting style to make it easier to read and understand. The substance and meaning of the provision is unchanged.

Clause 62 deals with unincorporated entities like partnerships and associations and for attributing criminal liability to officers of unincorporated entities for offences committed by their bodies. The clause also provides clarity where the offence by the unincorporated entity requires a mental element and is not a strict liability offence.

Clause 63 deals with the service of documents as required or allowed under the Bill.

Clause 64 empowers the Agency, with the Minister's approval, to make regulations about matters that are required or permitted by the Bill or are necessary or convenient to be made for giving effect to the Bill.

PART 8

TRANSFER OF UNDERTAKINGS TO AGENCY

Clause 65 contains definitions used for the purposes of this Part. In particular, it describes the various undertakings to be transferred to the Agency by this Part.

Clause 66 provides for the transfer, on the transfer date (which is the operative date of Part 8), to the Agency of all assets, rights and liabilities of the CPE, and all assets, rights and liabilities of the SWDA relating to specified SWDA departments.

The clause also contains a series of saving and transitional provisions, the general purpose of which is to put the Agency in the same legal position as the CPE and the SWDA from which assets or liabilities are transferred.

This clause declares that the transfer does not constitute a breach of, or default under, an Act or other law, does not constitute a breach of, or default under, a contract, agreement, understanding or undertaking, does not constitute a breach of a duty of confidence, does not constitute a civil or criminal wrong, does not terminate an agreement or obligation, or fulfils any condition that allows a person to terminate an agreement or obligation, or gives rise to any other right or remedy, and does not release a surety or other obligee wholly or in part from an obligation.

Clause 67 provides for the transfer of SWDA employees to the employment of the Agency, on the transfer date. There are no CPE employees to be transferred. Instead, the clause provides for the civil servants who are seconded to the CPE to continue on secondment to the Agency.

Clause 68 declares that the transfer of employees does not affect remuneration, leave rights or continuity of service and does not constitute a retrenchment or redundancy. It further declares that such a transfer is not to give rise to any right to damages or compensation.

Clause 69 provides for the transfer of records from the CPE and SWDA to the Agency.

Clause 70 provides for a certificate issued by the Minister for Finance to be evidence as to whether an asset or liability is or is not a transferred asset or liability, in the event of a dispute.

PART 9

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS

Clause 71 makes consequential amendments to the Private Education Act to dissolve the Council for Private Education and to transfer the function of regulating the private education industry in Singapore to the Agency. The Agency will be carrying out that function through one of its committees, called the Committee for Private Education.

Clause 72 contains related amendments to the Private Education Act to address minor regulatory gaps, such as extending reporting of renovation of premises of private education institutions to also include relocating of these premises.

Clause 73 is a saving and transitional provision made necessary by the Agency assuming the function of administering the Private Education Act and the dissolution of the Council for Private Education.

Clause 74 makes amendments to the Skills Development Levy Act consequential to the Agency assuming responsibility and ownership of the Skills Development Fund pursuant to the Bill, and to align the enforcement powers in the Skills Development Levy Act with those in the Bill.

Clause 75 makes consequential amendments to section 14R(6) of the Income Tax Act (Cap. 134) because of the Agency assuming from the SWDA the function of accrediting training.

Clause 76 makes consequential amendments to the Institute of Technical Education Act (Cap. 141A) to refocus the functions of the Institute as a provider of technical education and vocational training.

Due to the overlap in the functions of the Standards, Productivity and Innovation Board with the functions of the Agency, clause 77 makes a consequential amendment to the Standards, Productivity and Innovation Board Act (Cap. 303) to introduce as a new function of the Standards, Productivity and Innovation Board that of cooperating and collaborating with the SkillsFuture Singapore Agency and the SWDA in the discharge of their respective statutory functions.

Clause 78 makes consequential amendments to several other Acts.

EXPENDITURE OF PUBLIC MONEY

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