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Air Navigation (Amendment) Bill

Bill No. 27/2019.

Read the first time on 7 October 2019.

A BILL

i n t i t u l e d

An Act to amend the Air Navigation Act (Chapter 6 of the 2014 Revised Edition).

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

Short title and commencement

1. This Act is the Air Navigation (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 3A

2. Section 3A of the Air Navigation Act (called in this Act the principal Act) is amended —

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

10 “(oa) prohibiting except in prescribed
circumstances the disclosure or use of
flight recorder information or other
prescribed information, but without
15 limiting disclosure or use for the purposes
of an investigation under the Transport
Safety Investigations Act 2018 (Act 36 of
2018) or reporting a known or suspected
act of unlawful interference required by
that Act;”; and

20 (b) by inserting, immediately after subsection (7), the
following subsection:

25 “(7A) If a person is prohibited by any regulations
under subsection (1)(oa) from disclosing or using any
flight recorder information or other information,
then —

(a) the person cannot be required by any court
to disclose that information; and

30 (b) any information disclosed by the person in
contravention of that prohibition is not
admissible in any civil proceedings or other
proceedings or any criminal proceedings
other than proceedings against the person
for an offence under those regulations.”.

Amendment of section 4

3. Section 4 of the principal Act is amended —

(a) by deleting the words “and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a second or subsequent conviction for the like offence, to a fine not exceeding \$100,000” in subsection (3); and

(b) by inserting, immediately after subsection (3), the following subsections:

“(3A) A person who is guilty of an offence under subsection (3) shall be liable on conviction —

(a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; but

(b) where the person is a repeat offender, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(3B) A person is a repeat offender in relation to an offence under subsection (3) relating to an aviation safety instrument which is required under any aviation safety subsidiary legislation if the person has been convicted or found guilty (whether before, on or after the date of commencement of section 3 of the Air Navigation (Amendment) Act 2019) on at least one other earlier occasion of —

(a) an offence under subsection (3) relating to an activity or act in respect of any aircraft, aeronautical product or aviation-related service for which the same type of aviation safety instrument is required under any aviation safety subsidiary legislation; or

- (b) an offence under an order made under section 3 relating to an activity or act in respect of any aircraft, aeronautical product or aviation-related service for which the same type of aviation safety instrument is required under such an order.”.

Amendment of section 7

4. Section 7 of the principal Act is amended —

- (a) by deleting the words “and shall each be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both” in subsection (2); and

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

“(2A) A person who is guilty of an offence under subsection (2) shall be liable on conviction —

- (a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; but

- (b) where the person is a repeat offender, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2B) A person is a repeat offender in relation to an offence under subsection (2) if the person has been convicted or found guilty (whether before, on or after the date of commencement of section 4 of the Air Navigation (Amendment) Act 2019) on at least one other earlier occasion of an offence under subsection (2).”.

Amendment of section 7A

5. Section 7A of the principal Act is amended —

- (a) by deleting the words “and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both” in subsection (2); and
- (b) by inserting, immediately after subsection (2), the following subsections:

“(2A) A person who is guilty of an offence under subsection (2) shall be liable on conviction —

(a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; but

(b) where the person is a repeat offender, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2B) A person is a repeat offender in relation to an offence under subsection (2) if the person has been convicted or found guilty (whether before, on or after the date of commencement of section 5 of the Air Navigation (Amendment) Act 2019) on at least one other earlier occasion of an offence under subsection (2).”.

Amendment of section 7C

6. Section 7C of the principal Act is amended —

- (a) by deleting the words “and shall be liable on conviction to a fine not exceeding \$20,000” in subsection (1); and
- (b) by inserting, immediately after subsection (1), the following subsections:

“(1A) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; but

(b) where the person is a repeat offender, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(1B) A person is a repeat offender in relation to an offence under subsection (1) if the person has been convicted or found guilty (whether before, on or after the date of commencement of section 6 of the Air Navigation (Amendment) Act 2019) on at least one other earlier occasion of an offence under subsection (1).”.

Amendment of section 8C

7. Section 8C of the principal Act is amended by inserting, immediately after subsection (4), the following subsections:

“(5) Despite subsection (4), where a person commits an offence under subsection (1) or (2) by doing any act, or causing or permitting any act —

(a) involving an unmanned aircraft; and

(b) knowing that or reckless as to whether, when so acting or causing or permitting the act, the life or property of another person could be endangered or the person could be endangered,

then the person who is guilty of the offence shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or to both.

(6) For the purposes of subsection (1) or (2), it is immaterial that the accused is the holder of an aviation safety instrument or is exempt from a requirement to hold an aviation safety instrument.”.

Amendment of section 17A

8. Section 17A of the principal Act is amended —

- (a) by inserting, immediately after the words “any aviation security inspector” in subsection (5), the words “or public officer”; and
- (b) by inserting, immediately after the words “an aviation security inspector” in subsection (6), the words “, a public officer”.

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Amendment of section 29G

9. Section 29G(4) of the principal Act is amended by deleting the words “12 months” and substituting the words “2 years”.

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EXPLANATORY STATEMENT

This Bill seeks to amend the Air Navigation Act (Cap. 6) for the following purposes:

- (a) to enhance punishment for offences under the Act the commission of which involves the use of unmanned aircraft;
- (b) to enable regulations to be made to give effect to changes to Annex 6 of the Convention on International Civil Aviation (the Chicago Convention), which require Contracting States to provide for the protection of flight recorder information from disclosure, having regard to the effect the disclosure may have on any current or future collection and availability of aviation safety information;
- (c) to enable the delegation by the National Civil Aviation Security Authority of its powers to public officers.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 3A, which confers power on the Civil Aviation Authority of Singapore (CAAS) to make regulations. Section 3A is amended to enable regulations to be made to give effect to changes to Annex 6 of the Chicago Convention, which require Contracting States to provide for the protection of flight recorder information from disclosure, having regard to the effect the disclosure may have on any current or future collection and availability of aviation safety information. This will enable regulations to be made to place limits on the disclosure or use of flight recorder information or other similar information and to

prohibit any person who has or has had access to such information, from disclosing or making available the information to any other person or a court.

Section 3A is also amended to provide that a person prohibited under the regulations from disclosing or using flight recorder information or other information cannot be required by any court to disclose the information. Any such information disclosed by the person in contravention of the regulations is not admissible in any civil proceedings or other proceedings (like disciplinary proceedings by employers or administrative proceedings by regulators) or any criminal proceedings other than proceedings against the person for an offence under those regulations.

Clause 3 amends the offence in section 4(3) regarding the offence of carrying on an activity or act for which an aviation safety instrument is required by or under the Act. The present punishment is a fine not exceeding \$50,000 and, in the case of a second or subsequent conviction for the like offence, is a fine not exceeding \$100,000. The amendment in clause 3 raises the punishment for a first offence to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

However, where the person is a repeat offender, the punishment is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

A person is a repeat offender if the person, being accused of an offence relating to an aviation safety instrument which is required under any aviation safety subsidiary legislation, has been previously convicted or found guilty on at least one other earlier occasion of an offence under section 4(3) in respect of an activity or act which required the same type of aviation safety instrument, or an offence under the Air Navigation Order (O 2) made under section 3 relating to an activity or act for which the same type of aviation safety instrument is required under such Order. The latter is included because much of the aviation safety requirements had been set out in the Air Navigation Order.

The person may have been previously convicted or (if a juvenile) found guilty of the offence under section 4(3) or the Air Navigation Order before, on or after the date of commencement of clause 3.

Clause 4 amends the offence in section 7(2) regarding taking a photograph of a protected area using photographic equipment on board an unmanned aircraft, without a permit. The present penalty is a fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months or both. Clause 4 raises the punishment to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

However, where the person is a repeat offender, the punishment is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

A person is a repeat offender if the person, being accused of an offence of taking a photograph of a protected area using photographic equipment on board an unmanned aircraft, has been previously convicted or found guilty on at least one other earlier occasion of an offence under section 7(2), not necessarily with respect to the same protected area.

The person may have been previously convicted or (if a juvenile) found guilty of the offence under section 7(2) before, on or after the date of commencement of clause 4.

Clause 5 amends the offence in section 7A(2) of operating an unmanned aircraft to fly, at any height, over any part of any protected area, without a permit. The present punishment is a fine not exceeding \$20,000 or imprisonment for a term not exceeding 12 months or both. Clause 5 raises the punishment to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

However, where the person is a repeat offender, the punishment is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

A person is a repeat offender in relation to an offence under section 7A(2) if the person has been convicted or found guilty on at least one other earlier occasion of an offence under section 7A(2). The person may have been previously convicted or (if a juvenile) found guilty of the offence under section 7A(2) before, on or after the date of commencement of clause 5.

The amendments do not affect the offences under other laws relating to unmanned aircraft, such as section 30 of the Infrastructure Protection Act 2017 (Act 41 of 2017), section 32(2) of the Public Order Act (Cap. 257A) and section 43 of the Public Order and Safety (Special Powers) Act 2018 (Act 26 of 2018).

Clause 6 amends the offence in section 7C(1) regarding operating without a permit an unmanned aircraft to fly indoors or at any height over any area in Singapore and discharging anything (whether gaseous, liquid or solid) from the unmanned aircraft when flying. The present punishment is a fine not exceeding \$20,000. Clause 6 raises the punishment to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

However, where the person is a repeat offender, the punishment is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

A person is a repeat offender in relation to an offence under section 7C(1) if the person has been convicted or found guilty on at least one other earlier occasion of an offence under section 7C(1). The person may have been previously convicted or (if a juvenile) found guilty of the offence under section 7C(1) before, on or after the date of commencement of clause 6.

Clause 7 amends section 8C which makes unlawful the operating, maintaining or servicing, or doing any other act in respect of, any aircraft (which may be an unmanned aircraft), aeronautical product or aviation-related service in a way that

the person knows or ought reasonably to know could endanger the life of another person, or could endanger the person or the property of another person. The punishment today is a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or both.

Clause 7 prescribes a higher punishment if the person commits an offence under section 8C(1) or (2) by doing any act or causing or permitting an act involving an unmanned aircraft, and knowing that or reckless as to whether, when so acting or causing or permitting the act, the life or property of another person could be endangered or the person could be endangered.

This encompasses operating a drone in such a manner and with the awareness that doing so will or is likely to endanger flights, such as operating a drone without a permit so as to fly around Changi Village which adjoins Changi Airport, because it is reasonably foreseeable that operations connected with flights to and from Changi Airport will be disrupted due to the danger the drone intrusion presents to occupants of aircraft on those flights.

Another example would be flying an unmanned aircraft deliberately in close proximity of another aircraft (manned or otherwise) in flight, or immediately above moving vehicular traffic on an expressway, with the awareness that doing so will or is likely to endanger the lives of occupants of the aircraft or those on the ground below the flight path, or to distract or cause vehicle drivers to panic thereby endangering road safety on the expressway, as the case may be.

The higher penalty on conviction is either a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years or both.

Clause 7 makes it clear that for an offence under section 8C(1) or (2), it is immaterial that the accused is the holder of an aviation safety instrument or is exempt from a requirement to hold an aviation safety instrument.

These amendments do not affect similar offences under other laws like those in the Penal Code (Cap. 224).

Clause 8 amends section 17A(5) to enable the National Civil Aviation Security Authority to delegate its powers to a public officer, in addition to the existing delegates who may be aviation security inspectors or officers or employees of the National Civil Aviation Security Authority. This is because the National Civil Aviation Security Authority may be an individual.

Clause 9 amends the punishment in section 29G(4) for not complying with a direction from an authorised person requiring a person whom the authorised person reasonably believes to be involved in the operation of an unmanned aircraft, to end the flight of the unmanned aircraft, or land it, safely in the fastest practicable way, or to fly the unmanned aircraft in the manner specified by the authorised person. The current penalty is a fine not exceeding \$20,000 or

imprisonment for a term not exceeding 12 months or both. Clause 9 raises the maximum imprisonment to a term not exceeding 2 years.

An authorised person includes a police officer or an auxiliary police officer, of or above the rank of sergeant and authorised by the Commissioner of Police to exercise powers under section 29G, or a member of the Singapore Armed Forces who is authorised by the Chief of Defence Force to exercise powers under section 29G.

EXPENDITURE OF PUBLIC MONEY

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