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SkillsFuture Singapore Agency (Amendment) Bill

Bill No. 38/2022.

Read the first time on 28 November 2022.

A BILL

i n t i t u l e d

An Act to amend the SkillsFuture Singapore Agency Act 2016.

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 SkillsFuture Singapore Agency (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the SkillsFuture Singapore Agency Act 2016 (called in this Act the principal Act) is amended —

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

““authorised person” means an authorised person appointed by the Agency under section 56B(1);”;

(b) by inserting, immediately after the definition of “Deputy Chairperson”, the following definition:

““document” means any thing (in whatever form) in which information or material of any description is recorded or stored, and includes any tape, disk or other storage device or medium;”;

(c) by inserting, immediately after the definition of “grant”, the following definition:

““inspector” means an inspector appointed by the Agency under section 56B(2);”;

(d) by inserting, immediately after the definition of “Singapore Workforce Development Agency” or “SWDA”, the following definition:

““statutory authority” means a body corporate established or constituted by or under a public Act to perform or discharge a public function, but excludes a Town Council constituted under the Town Councils Act 1988;”.

Amendment of section 5

3. Section 5(1) of the principal Act is amended by deleting paragraph (e) and substituting the following paragraphs:

“(e) to provide funding for the provision or promotion of, or taking part in, or to encourage participation in, adult education and further education (wherever held) that is responsive to the needs of commerce or industry or employers;

(ea) to defray or subsidise any costs or expenses incurred or to be incurred in connection with any absence from work of any person to take part in any adult education or further education mentioned in paragraph (e);”.

Amendment of section 7

4. Section 7(5) of the principal Act is amended by deleting the definition of “document”.

Amendment of section 36

5. Section 36(1) of the principal Act is amended by deleting the full-stop at the end of paragraph (e) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(f) a public officer or an officer of a statutory authority.”.

Amendment of section 40

6. Section 40 of the principal Act is amended —

(a) by inserting, immediately after the words “this Act” in paragraph (b)(ii), the words “, section 17 of the Skills Development Levy Act 1979”;

(b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) Without affecting sections 20 and 21 of the Public Sector (Governance) Act 2018, every authorised person appointed under section 56B(1) and under section 14A(1) of the Skills Development

Levy Act 1979 is deemed to be a public servant for the purposes of the Penal Code 1871.”; and

- (c) by deleting the words “and subdelegates” in the section heading and substituting the words “, subdelegates and authorised persons”.

Amendment of section 41

7. Section 41 of the principal Act is amended —

- (a) by inserting, immediately after the words “an employee,” in subsection (1), the words “an officer,”;
- (b) by inserting, immediately after the words “a delegate or subdelegate of the Agency,” in subsection (1), the words “an authorised person, an inspector,”;
- (c) by inserting, immediately after the word “employee,” in subsection (1)(f), the word “officer,”;
- (d) by inserting, immediately after the words “delegate or subdelegate of the Agency” in subsection (1)(f), the words “, the authorised person, the inspector”; and
- (e) by inserting, immediately after subsection (2), the following subsection:

“(3) In this section —

“authorised person” means an authorised person appointed under section 56B(1) or section 14A(1) of the Skills Development Levy Act 1979;

“inspector” means an inspector appointed under section 56B(2), section 14A(2) of the Skills Development Levy Act 1979 or section 29(1) of the Private Education Act 2009.”.

Amendment of section 42

8. Section 42 of the principal Act is amended —

- (a) by inserting, immediately after the words “any employee,” the word “officer,”;

- (b) by inserting, immediately after the words “delegate or subdelegate of the Agency,”, the word “inspector,”;
- (c) by inserting, immediately after the words “this Act” in paragraphs (a) and (b), the words “or any other Act”; and
- (d) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:
 - “(2) In this section, “inspector” means an inspector appointed under section 56B(2), section 14A(2) of the Skills Development Levy Act 1979 or section 29(1) of the Private Education Act 2009.”.

Amendment of section 44

9. Section 44(1) of the principal Act is amended by inserting, immediately after paragraph (b), the following paragraph:

- “(ba) all moneys recovered by the Agency pursuant to an order of a court under section 57D or 58, that relate to the whole or the proportion of an incentive, a grant or a loan out of moneys not in the Skills Development Fund;”.

New Division 1 of Part 7

10. Part 7 of the principal Act is amended by inserting, immediately before section 57, the following Division:

*“Division 1 — Preliminary matters,
appointments and powers*

Meaning of “incentive”, “grant” and “loan” from Agency

56A. In this Part, an incentive, a grant or a loan from the Agency means —

- (a) an incentive, a grant or a loan given by the Agency out of moneys in the Skills Development Fund in accordance with section 7 of the Skills Development Levy Act 1979;

- (b) an incentive, a grant or a loan given by the Agency out of moneys not in the Skills Development Fund; or
- (c) an incentive, a grant or a loan given by the Agency out of a combination of moneys mentioned in paragraphs (a) and (b).

Appointment of authorised persons and inspectors

56B.—(1) The Agency may appoint an employee or agent of the Agency, a public officer or an officer of another statutory authority or any other suitably qualified individual to be an authorised person for the purposes of section 57.

(2) The Agency may appoint any of its officers or employees to be an inspector for the purposes of this Act.

(3) The Agency must issue to every authorised person and inspector an identification card that identifies him or her as an authorised person or inspector, as the case may be.

(4) An authorised person or inspector must produce his or her identification card for inspection —

- (a) before exercising a power conferred on him or her by this Act; and
- (b) at any time during the exercise of a power conferred on him or her by this Act, if asked to do so.”.

Amendment of section 57

11. Section 57 of the principal Act is amended —

- (a) by deleting the words “out of moneys not in the Skills Development Fund” in subsection (1)(a) and (b);
- (b) by deleting the words “The Agency, or an employee or agent of the Agency duly authorised by the Agency for the purposes of this section,” in subsection (2) and substituting the words “An authorised person”;
- (c) by deleting the words “Agency or the Agency’s employee or agent” in subsection (2)(e) and substituting the words “authorised person”;

- (d) by deleting the word “Agency” in subsection (3)(c) and substituting the words “authorised person”; and
- (e) by inserting, immediately after subsection (3), the following subsections:

“(4) If any document is kept in electronic form, the power of an authorised person who is an employee of the Agency, a public officer or an officer of another statutory authority — 5

(a) to inspect and make copies of or take extracts from any document under subsection (2)(d) includes the power to — 10

(i) access any computer or other equipment (including a mobile telephone, thumb drive or hard disk) in which the document is stored; and 15

(ii) require any person having charge of, or otherwise concerned with the operation of, the computer or other equipment to provide assistance in gaining such access; and 20

(b) to take possession of the document under subsection (2)(e) includes the power to —

(i) make copies of or take extracts from the document in legible or electronic form; and 25

(ii) transfer the information from the document to a thumb drive, hard disk, tape or other storage device.

(5) The powers under this section apply in relation to any inquiry into, or ascertainment of, any matter mentioned in subsection (1)(a) or (b) that commences on or after the date of commencement of section 11 of the SkillsFuture Singapore Agency (Amendment) 30

Act 2023, whether the incentive, grant or loan was applied for or given before, on or after that date.”.

New section 57A and new Division 2 of Part 7

12. The principal Act is amended by inserting, immediately after
5 section 57, the following section and Division:

“Powers of inspectors

57A.—(1) An inspector may, for the purpose of investigating an offence under this Act, exercise all or any of the following powers:

10 (a) the powers conferred on an authorised person under section 57(2), (3) and (4) as if a reference to an authorised person in those provisions were a reference to an inspector;

(b) the powers under subsection (2).

15 (2) An inspector may —

(a) require any person whom the inspector reasonably believes to have committed the offence to provide evidence of the person’s identity;

20 (b) require, by written order, the attendance before the inspector of any person within the limits of Singapore who, from any information given or otherwise obtained by the inspector, appears to be acquainted with the circumstances of the case;

25 (c) examine orally any person reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify, and reduce to writing the answer given or statement made by that person;

30 (d) without charge, search for, seize and remove any document (subject to paragraph (e) in relation to a document kept in electronic form) or thing from any premises, as the inspector may consider necessary; and

(e) if the inspector is unable to make copies of or take extracts from any document, or transfer the information from any document, in exercise of the powers under section 57(4)(b) —

(i) seize the computer or other equipment (including a mobile telephone, thumb drive or hard disk) in which the document is stored, as evidence in proceedings for an offence mentioned in subsection (1); and

(ii) require any person having charge of, or otherwise concerned with the operation of, the computer or other equipment to disclose any password or access code for gaining access to the document stored in the computer or other equipment.

(3) Any person examined under this section is bound to state truly what the person knows of the facts and circumstances concerning matters under this Act, except that the person need not say anything that might expose him or her to a criminal charge, penalty or forfeiture.

(4) A statement made by any person examined under this section must —

(a) be reduced to writing;

(b) be read over to the person;

(c) if the person does not understand English, be interpreted in a language that he or she understands; and

(d) after correction (if necessary), be signed by the person.

(5) This section applies in relation to —

(a) any investigation into an offence under this Act that commences on or after the date of commencement of section 12 of the SkillsFuture Singapore Agency

(Amendment) Act 2023, whether the offence was committed before, on or after that date; and

(b) any investigation that commences on or after the date of commencement of section 6 of the Skills Development Levy (Amendment) Act 2023, into an offence under the repealed section 12 that was committed before that date.

(6) In subsection (5)(b), “repealed section 12” means section 12 of the Skills Development Levy Act 1979 as in force immediately before the date of commencement of section 6 of the Skills Development Levy (Amendment) Act 2023.

Division 2 — Offences and general provisions

Abusive funding arrangement

57B.—(1) In this section and sections 57C and 57D, “funding arrangement” means any agreement, scheme, transaction or series of transactions (whether or not legally enforceable) where the purpose, or one of the purposes, is to obtain an incentive, a grant or a loan from the Agency.

(2) For the purposes of this section and sections 57C and 57D, a funding arrangement is an abusive funding arrangement if the funding arrangement, or a transaction forming part of the funding arrangement, results or would result in a person obtaining —

(a) an incentive, a grant or a loan from the Agency that a person would otherwise not be eligible for or would not have obtained from the Agency; or

(b) an amount of an incentive, a grant or a loan from the Agency higher than what a person would have been eligible for or would have obtained without that arrangement or transaction.

(3) For the purposes of sections 57C and 57D, the amount of wrongly obtained funding that a person obtained or would have

obtained from the Agency in relation to an abusive funding arrangement —

- (a) is the amount of the incentive, grant or loan that results or would result from the abusive funding arrangement, or a transaction forming part of the abusive funding arrangement; but
- (b) excludes any amount the person would have obtained without that abusive funding arrangement or transaction.

Entering into or facilitation of abusive funding arrangement

57C.—(1) A person commits an offence if the person —

- (a) enters into or facilitates a funding arrangement that is an abusive funding arrangement;
- (b) knows or has reason to believe that the funding arrangement is an abusive funding arrangement; and
- (c) intends by entering into or facilitating that abusive funding arrangement to dishonestly or fraudulently induce the Agency to give an incentive, a grant or a loan to the person, or to any other person or persons.

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

- (a) pay a penalty equal to the amount of wrongly obtained funding that the person obtained, or would have obtained, from the Agency as a result of the abusive funding arrangement entered into or facilitated by the person; and
- (b) be liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) For the purposes of subsection (2)(a), it is irrelevant whether the person convicted of the offence obtained the

wrongly obtained funding from the Agency for the benefit of that person, or for the benefit of any other person or persons.

(4) The penalty mentioned in subsection (2)(a) is recoverable in accordance with section 319 of the Criminal Procedure Code 2010 (other than section 319(1)(a)) as if it were a fine.

(5) For the purposes of subsection (1)(a), a person facilitates a funding arrangement if the person is —

(a) a training provider or an employer who designs, organises or manages the funding arrangement or a transaction forming part of the funding arrangement;

(b) either one of the following employees who participates in, or by the employee's act or omission enables or aids, the funding arrangement or a transaction forming part of the funding arrangement:

(i) an employee of the training provider mentioned in paragraph (a);

(ii) an employee of the employer mentioned in paragraph (a);

(c) a person who by attending a course or programme, participates in, enables or aids the funding arrangement or a transaction forming part of the funding arrangement;

(d) a marketing agent who publishes, disseminates or communicates any information, by any means or in any form, for the purpose of inducing or encouraging (whether directly or indirectly) any other person to enter into the funding arrangement or a transaction forming part of the funding arrangement; or

(e) any other person who —

(i) designs, organises, manages or participates in, or by the person's act or omission enables or aids, the funding arrangement or a transaction forming part of the funding arrangement; or

- (ii) publishes, disseminates or communicates any information, by any means or in any form, for the purpose of inducing or encouraging (whether directly or indirectly) any other person to enter into the funding arrangement or a transaction forming part of the funding arrangement.

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(6) However, a person does not facilitate a funding arrangement under subsection (5) only by reason that the person in the ordinary course of business —

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- (a) provides services relating to, or provides connections for, the transmission or routing of data;
- (b) provides, or operates facilities for, online services or network access; or
- (c) provides a service that —

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- (i) enables the end-users of that service to communicate with other end-users; or
- (ii) enables the publication, dissemination or communication of information or documents by end-users of that service,

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whether by means of email, by use of a mobile telephone or other device, or by use of application software or otherwise.

(7) In any proceedings for an offence under subsection (1), it is presumed, until the contrary is proved, that a person has the intention mentioned in subsection (1)(c) if the funding arrangement, or a transaction forming part of the funding arrangement, involves any step or steps (other than under subsection (6)) which is or are capable of assisting the person or any other person who enters into that funding arrangement or transaction to obtain the incentive, grant or loan.

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(8) To avoid doubt, it is not a defence in any proceedings for an offence under subsection (1) that the accused did not obtain any incentive, grant or loan from the Agency.

Recovery by Agency of wrongly obtained funding

57D.—(1) The court before which a person (*A*) is convicted of an offence under section 57C(1) may, in addition to imposing the penalty and punishment under section 57C(2), order *A* to repay to the Agency the amount of wrongly obtained funding that *A* obtained from the Agency (whether for *A*'s benefit, or for the benefit of any other person or persons) as a result of the abusive funding arrangement entered into or facilitated by *A*.

(2) Where the court makes an order under subsection (1) —

(a) the court is to certify the amount of wrongly obtained funding to be repaid to the Agency; and

(b) the Agency may recover the amount so certified in any civil court of competent jurisdiction as if the amount were a judgment debt due to the Agency.

(3) The Agency must pay the amount of wrongly obtained funding recovered under this section in the following manner:

(a) where the amount of wrongly obtained funding is in relation to an incentive, a grant or a loan out of moneys in the Skills Development Fund — the recovered amount must be paid into the Skills Development Fund;

(b) where the amount of wrongly obtained funding is in relation to an incentive, a grant or a loan out of moneys not in the Skills Development Fund — the recovered amount must be paid into the funds of the Agency under section 44(1) excluding the Skills Development Fund (called in this subsection the general moneys of the Agency);

(c) where the amount of wrongly obtained funding is in relation to an incentive, a grant or a loan out of a combination of moneys mentioned in paragraphs (a) and (b) — the recovered amount must be paid into the Skills Development Fund and to the general moneys of the Agency in the respective proportion that moneys were withdrawn from the Skills

Development Fund and the general moneys of the Agency for that incentive, grant or loan.

False or misleading advertisements

57E.—(1) A person commits an offence if —

- (a) the person publishes or causes to be published, or distributes or causes to be distributed, any advertisement that is false or misleading in a material particular; and 5
- (b) the person knows or ought reasonably to have known that, or is reckless as to whether, the advertisement is false or misleading in a material particular. 10

(2) A person who is guilty of an offence under subsection (1) 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.

(3) For the purposes of subsection (1), a person publishes, or causes to be published, an advertisement if the advertisement is made accessible to, or accessed by, persons by means of — 15

- (a) a newspaper, magazine, journal or any other periodical;
- (b) a sound or television broadcast transmitted for reception; or 20
- (c) any other means of broadcasting or communication for circulation or reception.

(4) For the purposes of subsection (1), an advertisement is false or misleading in a material particular if the advertisement — 25

- (a) falsely represents that a person is eligible for, or has been given, an incentive, a grant or a loan from the Agency in respect of a course or programme;
- (b) falsely represents that the Agency has accredited, or facilitated the accreditation by others in Singapore of, a provider of a course or programme; 30

- (c) falsely represents that the Agency has accredited, or facilitated the accreditation by others in Singapore of, a course or programme;
- (d) falsely represents that a provider of a course or programme, or a course or programme, is approved or endorsed by the Agency;
- (e) contains any false or misleading information concerning a provider of a course or programme who is eligible for, or has been given, an incentive, a grant or a loan from the Agency; or
- (f) concerns a course or programme in respect of which a person is eligible for, or has been given, an incentive, a grant or a loan from the Agency, and contains any false or misleading description of, or false or misleading information concerning —
 - (i) the curriculum, modules or subjects to be covered by that course or programme; or
 - (ii) the competencies, expertise or skills to be advanced by that course or programme.

(5) In this section and section 57F —

“advertisement” means any writing, still or moving picture, sign, symbol (whether 3-dimensional or 2-dimensional) or other visual image, or any audible message, or any combination of 2 or more of those things, that gives publicity to, or otherwise promotes or is intended to promote, a course or programme;

“distribute” includes —

- (a) in relation to a printed advertisement — to deliver or send to one or more persons, or to leave at any premises or on any vehicle; and
- (b) in relation to an advertisement in electronic form, in the form of an audio or a visual recording, or in a combination of any of those forms — to transmit to one or more persons by

use of the Internet or a mobile telephone network.

Remedial measures for false or misleading advertisements

57F.—(1) This section applies where the Agency is of the opinion that a person has published or caused to be published, or distributed or caused to be distributed, any advertisement for which an offence under section 57E(1) may have been committed (called in this section the defaulting person).

(2) The Agency may (without compensation) give a direction to the defaulting person to do all or any of the following:

- (a) take all practicable steps to remove the advertisement;
- (b) modify the advertisement in the manner specified or approved by the Agency;
- (c) cease the publication or distribution of any other advertisement which is wholly or substantially the same as the advertisement mentioned in subsection (1);
- (d) publish or cause to be published, or distribute or cause to be distributed, a corrective advertisement in the manner, and containing any information, specified or approved by the Agency.

(3) Before the Agency gives a direction to the defaulting person under subsection (2), the Agency must, unless the Agency considers it not practicable or desirable to do so, give written notice to the defaulting person —

- (a) stating that the Agency intends to give a direction to the defaulting person under this section; and
- (b) specifying the time within which written representations may be made to the Agency with respect to the proposed direction.

(4) The Agency may, after considering any written representation made pursuant to subsection (3)(b), decide to

give or not to give, or to modify, the direction as the Agency considers appropriate.

(5) The Agency must serve on the defaulting person a notice of the Agency's decision under subsection (4).

5 (6) Every defaulting person must comply with a direction given by the Agency to the defaulting person under subsection (2).

10 (7) A defaulting person who, without reasonable excuse, fails to comply with a direction of the Agency under subsection (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and

15 (b) in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(8) Where the defaulting person fails to comply with a direction of the Agency under subsection (2), the Agency may —

20 (a) take all steps as the Agency considers reasonable and necessary to give effect to the direction; and

(b) recover all costs and expenses reasonably incurred by the Agency in so doing from the defaulting person, as a civil debt due to the Agency.

25 **Refund by funding recipient for cancelled course or programme, etc.**

57G.—(1) This section applies where, on or after the appointed day —

30 (a) the Agency has given an incentive, a grant or a loan to any person (called in this section a funding recipient) in connection with a course or programme;

(b) a person (called in this section a trainee) takes part in, or intends to take part in, a course or programme provided or to be provided by the funding recipient;

(c) the course or programme —

- (i) does not start on the scheduled starting day; or
- (ii) ceases to be provided at any time after it starts but before it is completed; and

(d) the trainee has not withdrawn from the course or programme before the default day. 5

(2) The Agency may give a direction to a funding recipient to make either or both of the following refunds by the time specified in the direction for that refund:

(a) a refund to a trainee or any other person of the money received by the funding recipient before the default day from that trainee or other person (as the case may be) in payment for that trainee taking part in the course or programme; 10

(b) a refund to the Agency of the amount of the incentive, grant or loan given by the Agency to the funding recipient in connection with each trainee taking part in the course or programme. 15

(3) Before the Agency gives a direction to the funding recipient under subsection (2), the Agency must, unless the Agency considers it not practicable or desirable to do so, give written notice to the funding recipient — 20

(a) stating that the Agency intends to give a direction to the funding recipient under this section; and

(b) specifying the time (being at least 14 days or any other period of time that may be prescribed in substitution) within which written representations may be made to the Agency with respect to the proposed direction. 25

(4) The Agency may, after considering any written representation made pursuant to subsection (3)(b), decide to give or not to give, or to modify, the direction as the Agency considers appropriate. 30

(5) The Agency must serve on the funding recipient a notice of the Agency's decision under subsection (4).

(6) Every funding recipient must comply with a direction given by the Agency to the funding recipient under subsection (2).

(7) Subsection (2) applies despite anything to the contrary contained in any agreement entered into on or after the appointed day between the funding recipient and the trainee concerned, or between the funding recipient and any person who paid for the course or programme on behalf of the trainee.

(8) A funding recipient who, without reasonable excuse, fails to comply with a direction under subsection (2) 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.

(9) In this section —

“appointed day” means the date of commencement of section 12 of the SkillsFuture Singapore Agency (Amendment) Act 2023;

“default day”, in relation to a course or programme, means —

(a) if subsection (1)(c)(i) applies — the scheduled starting day for the course or programme; or

(b) if subsection (1)(c)(ii) applies — the day on which the course or programme ceases to be provided;

“scheduled starting day”, in relation to a course or programme, means the day on which the course or programme was scheduled to start.

Appeal to Minister against directions under sections 57F and 57G

57H.—(1) A person who is given a direction by the Agency under section 57F(2) or 57G(2) and is aggrieved by the

Agency's decision to give the direction (called in this section an appellant) may appeal to the Minister against the Agency's direction in accordance with this section.

(2) An appeal under this section must be —

(a) in writing and specify the grounds on which it is made; and 5

(b) made within 14 days (or any other period of time that may be prescribed in substitution) after the date the direction appealed against is given to the appellant.

(3) The Minister may reject an appeal of an appellant who fails to comply with subsection (2). 10

Decision of Minister on appeal

57I.—(1) After considering an appeal under section 57H, the Minister may —

(a) reject the appeal and confirm the Agency's decision to give the direction; or 15

(b) allow the appeal and vary or revoke the direction that is the subject of the appeal.

(2) The Minister's decision on an appeal is final.

(3) Every appellant mentioned in section 57H(1) must be notified of the Minister's decision under subsection (1). 20

(4) An appeal under section 57H does not affect the operation of the direction appealed against or prevent the taking of action to implement the direction, and unless otherwise directed by the Minister, the direction appealed against must be complied with until the determination of the appeal. 25

Designate may hear appeal in place of Minister

57J.—(1) The Minister may designate any of the following office-holders in his or her Ministry to hear and determine, in the Minister's place, any appeal made under section 57H: 30

(a) the Second Minister, if any;

(b) any Minister of State or Senior Minister of State;

(c) any Parliamentary Secretary or Senior Parliamentary Secretary.

5 (2) A reference to the Minister in section 57H or 57I includes a reference to a person designated under subsection (1).”.

Amendment of section 58

13. Section 58 of the principal Act is amended —

(a) by deleting the words “out of moneys not in the Skills Development Fund” in subsections (1)(a) and (3);

10 (b) by deleting the words “by the Agency under section 57” in subsection (1)(b) and substituting the words “under section 57 or 57A, or to the Agency in connection with any function or duty of the Agency under this Act”;

15 (c) by deleting the words “by the Agency under section 57 to provide” in subsection (1)(c) and substituting the words “to provide under section 57 or 57A”; and

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

20 “(4) The court before which a person is convicted of an offence under subsection (1)(a) may, in addition to imposing the punishment under subsection (2), order the person to repay to the Agency an amount which consists of —

25 (a) the amount of the incentive, grant or loan that the Agency gave to the person as a result of the false or misleading statement mentioned in subsection (1)(a); but

30 (b) excludes any amount that the Agency would have given the person without that false or misleading statement.

(5) Section 57D(2) and (3) applies to an order of the court for the repayment under subsection (4), with the necessary modifications.”.

Amendment of section 59

14. Section 59 of the principal Act is amended —

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(a) by deleting subsection (1) and substituting the following subsection:

“(1) A person must not —

(a) obstruct or hinder a member, an employee, an officer, an agent or a delegate or subdelegate of the Agency, an authorised person or an inspector, who is exercising any power or discharging any duty under this Act; or

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(b) neglect or refuse to attend before an inspector as required under section 57A, or otherwise fail to comply with a lawful demand of an inspector under section 57A.”; and

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(b) by deleting the words “Agency in carrying out its functions” in the section heading and substituting the words “member, employee, etc.”.

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Saving and transitional provisions

15.—(1) Any inquiry into, or ascertainment of, any matter mentioned in section 15(1)(b) or (c) of the Skills Development Levy Act 1979 as in force immediately before the date of commencement of section 8 of the Skills Development Levy (Amendment) Act 2023 (called a relevant inquiry), that commenced before that date and is pending on that date, may be continued and everything in relation to the relevant inquiry may be done in all respects on or after that date under section 57 of the principal Act as amended by this Act.

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- (2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider
5 necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the SkillsFuture Singapore Agency Act 2016 (the Act) for the following main purposes:

- (a) to provide for the appointment of authorised persons and inspectors;
- (b) to consolidate enforcement powers and offences relating to incentives, grants and loans (including those given out of moneys in the Skills Development Fund) from the SkillsFuture Singapore Agency (the Agency) in the Act;
- (c) to enhance the enforcement powers in the Act;
- (d) to prescribe a new offence concerning entering into or facilitation of abusive funding arrangements and related provisions on recovery of funding wrongly obtained from the Agency;
- (e) to prescribe a new offence concerning false or misleading advertisements and related provisions to empower the Agency to direct remedial measures for those false or misleading advertisements;
- (f) to empower the Agency to direct refunds for courses or programmes funded by the Agency that are cancelled or not completed;
- (g) to make miscellaneous amendments in connection with the Agency's administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions of certain expressions used in the Bill.

Clause 3 amends section 5(1) to expand the scope of funding that may be provided by the Agency. The expanded scope deals with the following matters:

- (a) the re-enactment of section 5(1)(e) (with amendments) allows the Agency to provide funding for the promotion of the adult education or further education currently described in section 5(1)(e) (the described education), and also to provide funding to encourage participation in the described education;

- (b) the new section 5(1)(*ea*) allows the Agency to defray or subsidise any costs or expenses incurred or to be incurred in connection with any person's absence from work to take part in the described education. For example, the Agency could defray the costs or expenses of an employer in allowing its employees to take part in the described education.

Clause 4 amends section 7(5) to delete the definition of "document" as it will be covered by the new definition of "document" in section 2 inserted by clause 2.

Clause 5 amends section 36(1) by inserting a new paragraph (*f*) that allows the Agency to delegate any of its functions or powers to a public officer or an officer of a statutory authority.

Clause 6 amends section 40 by inserting a new subsection (2) to deem an authorised person appointed under the new section 56B inserted by clause 10 and under the new section 14A of the Skills Development Levy Act 1979 (the SDL Act) to be inserted by clause 7 of the Skills Development Levy (Amendment) Bill (the SDL (Amd) Bill), to be a public servant for the purposes of the Penal Code 1871. This is because an authorised person so appointed may be a private individual. The clause also clarifies the status of a person who may be delegated the power of the Agency under section 17 of the SDL Act to collect composition sums.

Clause 7 amends section 41 by making amendments that are consequential upon the new section 56B inserted by clause 10 and the new section 14A of the SDL Act to be inserted by clause 7 of the SDL (Amd) Bill, and to make other miscellaneous amendments relating to matters under the Private Education Act 2009 (the PE Act).

Clause 8 amends section 42 by making amendments that are consequential upon the new section 56B inserted by clause 10 which provides for the appointment of inspectors and to clarify that the section also applies in relation to officers of the Agency. Section 42 extends to authorised persons appointed under the new section 56B, and the new section 14A of the SDL Act to be inserted by clause 7 of the SDL (Amd) Bill, only if they act under the direction of the Agency. The protection from personal liability in section 42 extends to persons described in section 42 exercising the powers and performing the functions under the Act or any other Act.

Clause 9 amends section 44(1) to insert a new paragraph (*ba*) consequential upon the new section 57D inserted by clause 12 and the new subsection (4) of section 58 inserted by clause 13. The amendments seek to allow certain moneys recovered by the Agency under those provisions to be paid into the funds of the Agency (excluding the Skills Development Fund).

Clause 10 inserts a new Division 1 of Part 7 which designates the new sections 56A and 56B, section 57 and the new section 57A inserted by clause 12 as

matters that are “Preliminary matters, appointments and powers”, and inserts the new sections 56A and 56B.

The new section 56A explains that in Part 7, an incentive, a grant or a loan from the Agency can be an incentive, a grant or a loan out of moneys in the Skills Development Fund (the SDF moneys), out of moneys not in the Skills Development Fund (the non-SDF moneys) or out of a combination of the SDF moneys and the non-SDF moneys. The combination of those moneys is subject to section 44(2) which currently requires the Skills Development Fund to be managed and administered by the Agency separately from other funds and property of the Agency.

The new section 56B provides for the appointment of authorised persons and inspectors, and related matters. Both authorised persons and inspectors are individuals, but the difference in their respective appointments is that an employee or agent of the Agency, a public officer or an officer of another statutory authority or any other duly qualified individual (who may be a private individual) can be appointed as an authorised person whereas only an employee or an officer of the Agency can be appointed as an inspector. The other difference between authorised persons and inspectors is that authorised persons exercise powers under section 57 which are for the purposes of more routine inquiries or ascertainment of matters described in section 57(1)(a) or (b) relating to an incentive, a grant or a loan, whereas inspectors exercise more intrusive powers under the new section 57A for the purposes of investigating an offence under the Act.

Clause 11 amends section 57 mainly to insert the new subsection (4) which provides new powers relating to inspection and taking possession of electronic documents. Amendments are also made to section 57 consequential upon the new section 56B inserted by clause 10 (on appointment of authorised persons).

Clause 12 inserts a new section 57A, the new Division 2 of Part 7 which designates the new sections 57B to 57J and sections 58 to 64 as matters relating to “Offences and general provisions”, and new sections 57B to 57J.

The new section 57A sets out the powers of inspectors appointed under the new section 56B, for the purpose of investigating an offence under the Act. The purpose extends to investigating an offence prescribed in subsidiary legislation made under the Act, by virtue of section 26A of the Interpretation Act 1965.

The new sections 57B, 57C and 57D are related sections concerning the entering into or facilitation of abusive funding arrangements.

The new section 57B provides for the meaning of certain terms and expressions used in the new sections 57B, 57C and 57D (namely, “funding arrangement”, “abusive funding arrangement” and how the amount of wrongly obtained funding is determined).

The new section 57C sets out a new offence of entering into or facilitation of an abusive funding arrangement. The offence may be committed by one or more persons (whether an individual, an entity or otherwise) who may, alone or with other persons, engage in one transaction or multiple transactions aimed at abusing the use of an incentive, a grant or a loan from the Agency. In addition to the punishment of a fine or imprisonment or both, a person convicted of the offence also has to pay a mandatory penalty which is described in the new section 57C(2)(a) and (3). What it means to facilitate a funding arrangement is described in the new section 57C(5), with exceptions set out in the new section 57C(6) in recognition that there may be persons (for example, Internet Service Providers or mobile network operators) that merely provide facilities for transmission of data, etc., with no other involvement in the abusive funding arrangement. A rebuttable presumption as to a person's intention is set out in the new section 57C(7).

The new section 57D mainly provides for a court to order a person convicted of an offence under the new section 57C(1) to repay to the Agency the amount of wrongly obtained funding that the convicted person obtained from the Agency (whether for the benefit of the convicted person, or any other person or persons), as a result of the abusive funding arrangement entered into or facilitated by the convicted person.

The new sections 57E and 57F are related sections concerning false or misleading advertisements.

The new section 57E sets out an offence for the publication or distribution of an advertisement that is false or misleading in a material particular (as defined by the new section 57E(4)). The offence is targeted mainly at the publication or distribution of advertisements which may mislead one or more persons as to the courses or programmes funded or eligible for funding by the Agency (for example, courses for which SkillsFuture credits may be used), or accredited by the Agency or by other persons whose accreditation the Agency has facilitated. A person may be liable for the new offence even if the person does not publish or distribute the advertisement, if the person causes the publication or distribution, as the case may be. An advertisement for the purposes of the new offence could be a printed advertisement, an online advertisement or be one accessible in any other medium as described in the new section 57E(3).

The new section 57F empowers the Agency to give directions on remedial measures to be taken by a person in relation to false or misleading advertisements. The Agency is required by the new section 57F to allow a person to make representations before giving the direction, unless the Agency considers it not practicable or desirable to do so. A person who, without reasonable excuse, fails to comply with the direction shall be guilty of an offence.

The new section 57G empowers the Agency to give directions to direct a person who receives an incentive, a grant or a loan from the Agency (the funding

recipient) in connection with a course or programme, to make refunds to trainees or other persons, or the Agency, if the course or programme is cancelled or not completed. The Agency is required by the new section 57G to allow a person to make representations before giving the direction, unless the Agency considers it not practicable or desirable to do so. A funding recipient who, without reasonable excuse, fails to comply with the direction shall be guilty of an offence.

The new sections 57H, 57I and 57J are related sections, and concern an appeal to the Minister against the Agency's directions under the new section 57F(2) or 57G(2).

Clause 13 amends section 58 mainly to consolidate the offences in section 58(1)(a) and section 12 of the SDL Act, concerning a statement made or authorised to be made in relation to an application for an incentive, a grant or a loan from the Agency that a person knows is false or misleading in any material particular. The clause also re-enacts section 13 of the SDL Act (with amendments) to provide for a court to order repayment to the Agency of the amount of the incentive, grant or loan that the Agency gave to the convicted person as a result of such a statement. Due to clause 13, sections 12 and 13 of the SDL Act will be repealed by clause 6 of the SDL (Amd) Bill.

The clause also amends section 58 to cater for an offence arising from any information or document provided to the Agency in connection with any function or duty of the Agency under the Act, that a person knows is false or misleading in any material particular.

Clause 14 amends section 59 mainly to re-enact the current offence with amendments that are consequential upon other amendments in the Bill.

Clause 15 provides a transitional provision to deal with any pending inquiry or ascertainment of any matter, mentioned in section 15(1)(b) or (c) of the SDL Act (which concerns an incentive, a grant or a loan out of the SDF moneys), due to the consolidation of enforcement powers relating to incentives, grants and loans in the Act. The clause also empowers the Minister to make provisions of a saving or transitional nature for any provision of the Bill for a period of 2 years after the date of commencement of any provision of the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
