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Free Trade Zones (Amendment) Bill

Bill No. 29/2023.

Read the first time on 18 September 2023.

A BILL

i n t i t u l e d

An Act to amend the Free Trade Zones Act 1966 and to make consequential amendments to the Customs Act 1960.

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 Free Trade Zones (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of long title

2. In the Free Trade Zones Act 1966 (called in this Act the principal Act), in the long title, after “Singapore”, insert “and the regulation of activities in those free trade zones,”.

Amendment of section 2

3. In the principal Act, in section 2 —

(a) before the definition of “authority”, insert —

““air cargo agent” means a person who carries on a business that includes handling goods, to be passed to or received from an operator of an aircraft or its representative, for carriage in the aircraft;

“aircraft” means an aircraft of any description which may be used for the conveyance of persons or goods by air;”;

(b) replace the definition of “Committee” with —

““conveyance” includes any vessel, train, vehicle or aircraft in which persons or goods can be carried;”;

(c) in the definition of “customs duty”, replace “excise tax” with “excise duty”;

(d) after the definition of “free trade zone”, insert —

““free trade zone cargo handler” or “FTZ cargo handler”, in relation to a free trade zone —

(a) means a person providing any service or facility for the storing, processing or handling of goods at the free trade

zone, for any goods being brought into or out of Singapore; and

- (b) includes an FTZ operator of the free trade zone that provides any such service or facility;

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“free trade zone operator” or “FTZ operator”, in relation to a free trade zone, means the person who administers, maintains and operates the free trade zone;

“free trade zone operator licence” or “FTZ operator licence” means a free trade zone operator licence granted under section 14C to administer, maintain and operate a free trade zone specified in the licence;”;

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- (e) after the definition of “goods”, insert —

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““licensed FTZ operator” means an FTZ operator holding a valid free trade zone operator licence;”;

- (f) in the definitions of “officer of customs”, “proper officer of customs” and “senior officer of customs”, replace the full-stop at the end with a semi-colon; and

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- (g) after the definitions of “officer of customs”, “proper officer of customs” and “senior officer of customs”, insert —

““shipping agent” means a person who carries on a business that includes handling goods, to be passed to or received from an operator of a vessel or its representative, for carriage in the vessel;

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“tax” means goods and services tax under section 8(4) of the Goods and Services Tax Act 1993;

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“taxable goods” means any goods (including any goods manufactured in a free trade zone) subject to the payment of tax on entry into

customs territory pursuant to section 8(4) of the Goods and Services Tax Act 1993, and on which such tax has not been paid;

“vessel” includes any ship or boat or other description of vessel used in navigation by sea.”.

Deletion of section 4 and new section 4

4. In the principal Act, replace section 4 with —

“Power of Director-General to administer Act, etc.

4.—(1) The Director-General is responsible for the administration of this Act, subject to the general or special directions of the Minister.

(2) Subject to the general direction and supervision of the Director-General, the Deputy Directors-General of Customs and Assistant Directors-General of Customs appointed under section 4(2) of the Customs Act 1960 have and may exercise all the powers conferred on the Director-General by this Act.

(3) The Director-General may confer on any senior officer of customs appointed under section 4(4) of the Customs Act 1960 all or any of the powers conferred on the Director-General by this Act (except under this subsection), subject to any conditions or restrictions that the Director-General thinks fit.

(4) The Director-General may confer on any officer of customs all or any of the powers of a senior officer of customs under this Act.”.

Amendment of section 5

5. In the principal Act, in section 5(2) —

(a) in paragraph (b), after “the authority”, insert “or licensed FTZ operator of the free trade zone”; and

(b) delete “and any regulations made under that Act”.

Amendment of section 6

6. In the principal Act, in section 6 —

(a) replace subsection (1) with —

“(1) Any person who intends to do any of the following in a free trade zone must give the Director-General written notice of the intention and obtain the Director-General’s prior written permission to do so:

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(a) assemble, mix or otherwise manipulate any goods for entry into customs territory, where any goods or materials used in the assembly, mixing or manipulation are dutiable goods;

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(b) manufacture any goods.”;

(b) in subsection (2), delete “; except that, if permission is granted, such manipulation or manufacture shall be carried out under customs supervision”; and

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(c) in subsection (4), replace “it shall be dutiable” with “the recoverable waste is subject to the payment of customs duty and payment of tax”.

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Amendment of section 7

7. In the principal Act, in section 7, delete subsections (2) and (3).

Amendment of section 8

8. In the principal Act, in section 8 —

(a) after “the authority” wherever it appears, insert “or licensed FTZ operator of the free trade zone”;

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(b) renumber the section as subsection (1) of that section; and

(c) after subsection (1), insert —

“(2) The authority or licensed FTZ operator must, within the prescribed period after each authorisation of any retail trade under subsection (1), submit to the

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Director-General the prescribed information and documents in respect of the authorisation.”.

Replacement of sections 9 and 10 and new section 10A

9. In the principal Act, replace sections 9 and 10 with —

“Use and consumption of dutiable goods and taxable goods

9. Subject to sections 5, 6 and 8, a person who knows or has reason to believe that any customs duty or tax on any dutiable goods or taxable goods in a free trade zone has not been paid to the Director-General, must not use or consume the goods, unless the customs duty and tax on the goods are paid to the Director-General before the use or consumption.

Authorisation to enter or reside in free trade zone

10.—(1) A person must not enter or reside in a free trade zone without the permission of the authority or licensed FTZ operator of the free trade zone.

(2) Despite any permission granted by the authority or licensed FTZ operator under subsection (1), the Director-General may, by written order to any person, prohibit the person from entering or residing in the free trade zone.

Offences and penalties under this Part

10A.—(1) Any person who fails to comply with a direction given by the authority or a licensed FTZ operator under section 5(2), or who fails to comply with section 6(1), shall be guilty of an offence and shall be liable on conviction to —

(a) a fine not exceeding the greater of the following:

(i) \$10,000;

(ii) the sum total of the customs duty and tax on the goods to which the non-compliance relates; or

(b) imprisonment for a term not exceeding 12 months, or to both.

(2) Any person who contravenes section 8 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(3) Any person who contravenes section 9 shall be guilty of an offence and shall be liable on conviction to — 5

(a) a fine not exceeding the greater of the following:

(i) \$10,000;

(ii) the sum total of the customs duty and tax on the goods to which the contravention relates; or

(b) imprisonment for a term not exceeding 12 months, 10
or to both.

(4) Any person who contravenes section 10(1) or a written order of the Director-General under section 10(2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.”. 15

New Parts 3A, 3B and 3C

10. In the principal Act, after Part 3, insert —

“PART 3A

REGULATION OF FREE TRADE ZONE OPERATORS

Division 1 — Licensing of free trade zone operators 20

Unauthorised operation of free trade zone

14A.—(1) Subject to subsection (3), a person must not administer, maintain or operate a free trade zone unless the person is authorised to do so by an FTZ operator licence.

(2) Any person who contravenes subsection (1) shall be guilty 25
of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(3) This section does not apply to an authority in respect of a free trade zone for which the authority is appointed, under section 3(2), to administer, maintain and operate. 30

Application for or to renew free trade zone operator licences

5 **14B.**—(1) An application for or to renew an FTZ operator licence must be made to the Director-General in accordance with this section.

(2) An application for or to renew an FTZ operator licence must —

(a) be made in the form and manner determined by the Director-General; and

10 (b) be accompanied by the information and documents that the Director-General requires to decide the application.

(3) The Director-General may refuse to consider an application for or to renew an FTZ operator licence that is incomplete or not made in accordance with this Act.

Grant, etc., of free trade zone operator licences

14C.—(1) After considering any application for or to renew an FTZ operator licence, the Director-General may —

20 (a) grant the applicant an FTZ operator licence or renew the FTZ operator licence, as the case may be; or

(b) refuse to grant or renew the FTZ operator licence, as the case may be.

(2) An FTZ operator licence is not transferrable.

Validity of free trade zone operator licence

25 **14D.** Every FTZ operator licence granted or renewed under section 14C continues in force for the period specified in the licence unless it is earlier suspended or revoked under section 14P.

Conditions of free trade zone operator licence

30 **14E.**—(1) The Director-General may at any time impose any conditions on or modify any conditions of an FTZ operator

licence that the Director-General considers requisite or expedient having regard to the purposes of this Act.

(2) The conditions under subsection (1) include conditions —

- (a) requiring the licensed FTZ operator to provide any support or assistance to any officer of customs for performing any duty of the officer of customs under this Act or any other written law; 5
- (b) requiring the licensed FTZ operator —
 - (i) to nominate, and ensure that at all times there is nominated, one or more representatives of the licensed FTZ operator; and 10
 - (ii) to provide the name and contact details of each representative so nominated;
- (c) requiring the licensed FTZ operator to construct, install or otherwise provide, and maintain, in accordance with any specifications specified by the Director-General, any structure, facility or device — 15
 - (i) for the purpose of ensuring the security of the free trade zone;
 - (ii) for officers of customs whose duties require their presence within or at the perimeter of the free trade zone; or 20
 - (iii) that is necessary for the proper and efficient functioning of the free trade zone;
- (d) requiring the licensed FTZ operator to implement systems and procedures to monitor the free trade zone and ensure the security of the free trade zone; 25
- (e) requiring the licensed FTZ operator to monitor the activities of any person within the free trade zone to ensure that activities are not carried out in contravention of this Act or any other written law in the free trade zone; 30

(f) requiring the licensed FTZ operator to take reasonable measures to assess whether any person who intends to carry out any activities or otherwise operate in the free trade zone, or who is carrying out any activities or otherwise operating in the free trade zone, falls within any list of prohibited persons specified under subsection (3);

(g) requiring the licensed FTZ operator to refuse to grant, to any person who falls within any list of prohibited persons specified under subsection (3), permission under section 10(1) to enter or reside in the free trade zone;

(h) relating to the provision or publication, within the free trade zone, of information in relation to the requirements that any person or activity must comply with;

(i) in relation to any goods or operations that are dangerous or prejudicial to the public interest, health or safety —

(i) requiring the licensed FTZ operator to provide information to any person of the nature of those goods or operations;

(ii) specifying the classes of goods that the licensed FTZ operator must order, under section 14H(1), to be excluded or removed from the free trade zone; and

(iii) specifying the types of operations that the licensed FTZ operator must order, under section 14H(1), to be discontinued in the free trade zone;

(j) specifying the types of retail trade that the licensed FTZ operator may authorise, and the conditions to be imposed by the licensed FTZ operator, under section 8(1);

(*k*) specifying the persons that the licensed FTZ operator may permit to erect buildings and other structures in the free trade zone, the type of buildings and other structures that may be erected, and the conditions to be imposed by the licensed FTZ operator, under section 14G(1); and 5

(*l*) requiring the licensed FTZ operator to ensure that any lessee (including an FTZ cargo handler) of the licensed FTZ operator of any immovable property in the free trade zone obtains the licensed FTZ operator's approval before sub-leasing the immovable property to any other person, and specifying the circumstances in which such approval may or may not be given. 10

(3) The Director-General may, for the purpose of subsection (2)(*f*) and (*g*), specify as prohibited persons such persons as the Director-General has reasonable grounds to believe have engaged or are engaging in conduct that — 15

(*a*) amounts to an offence involving fraud or dishonesty, whether in Singapore or elsewhere; or 20

(*b*) will prejudice the security of the free trade zone.

(4) In this section, “representative”, in relation to a licensed FTZ operator, means an individual who —

(*a*) is directly involved in the day-to-day management of the operations of the licensed FTZ operator within the free trade zone; 25

(*b*) is responsible for ensuring the licensed FTZ operator adheres to the licence conditions imposed under subsection (1); and

(*c*) is authorised to represent the licensed FTZ operator for the purposes of this Act. 30

*Division 2 — Duties and powers of licensed
free trade zone operators*

Director-General's directions to licensed free trade zone operators

5 **14F.**—(1) The Director-General may give a licensed FTZ operator any directions that the Director-General considers necessary to ensure compliance with the provisions of this Act and for the purpose of protecting the revenue.

10 (2) Where the licence of a licensed FTZ operator ceases to be in force after the direction is given, the former licensee must still comply with the direction.

15 (3) A person who is or was a licensed FTZ operator that fails to comply with a direction given by the Director-General under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Free trade zone operators may allow erection of private buildings, etc.

20 **14G.**—(1) Subject to subsection (2), a licensed FTZ operator of a free trade zone may permit any person to erect any buildings and other structures within the free trade zone as may be required, subject to any conditions that the licensed FTZ operator may impose.

25 (2) Any permission under subsection (1) does not constitute a vested right as against the licensed FTZ operator or the Government.

Exclusion or removal of certain goods or discontinuance of operations

14H.—(1) A licensed FTZ operator of a free trade zone may by written order to any person —

- 30 (a) prohibit the person from bringing into the free trade zone, or require the person to remove from the free trade zone, any goods if the goods are dangerous or prejudicial to the public interest, health or safety; or

- (b) require the person to discontinue any operations in the free trade zone if the operations are dangerous or prejudicial to the public interest, health or safety.

(2) The Director-General may by written order to any person —

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- (a) prohibit the person from bringing into the free trade zone, or require the person to remove from the free trade zone, any goods if, in the opinion of the Director-General, the goods are dangerous or prejudicial to the public interest, health or safety; or

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- (b) require the person to discontinue any operations in the free trade zone if, in the opinion of the Director-General, the operations are dangerous or prejudicial to the public interest, health or safety.

(3) To avoid doubt, nothing in subsection (2) prevents the Director-General from delegating to any other person all or any of the Director-General's powers under that subsection, in accordance with section 4 or any other law.

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(4) Any person who fails to comply with an order under subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

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(5) Where any person fails to comply with an order under subsection (1) or (2), the Director-General may enter the free trade zone (including any building, structure, facility or conveyance in the free trade zone) and take such measures and do such work as may be necessary to give effect to the order.

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(6) Any costs and expenses incurred by the Director-General under subsection (5) may be recovered by the Director-General as a debt due to the Government from the person who failed to comply with the order.

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*Division 3 — Preparing and giving of reports and
information, etc., by free trade zone operators*

Free trade zone operators to submit and retain reports

5 **14I.**—(1) The Director-General may, by written notice, require a person who is or was a licensed FTZ operator to prepare and submit (including on a periodic basis) to the Director-General a report containing any prescribed information and documents relating to any period when the person is or was a licensed FTZ operator.

10 (2) The report mentioned in subsection (1) must be submitted in the form and manner and within the period specified by the Director-General.

(3) A report mentioned in subsection (1) must be retained by the person who prepared the report for the prescribed period.

15 (4) Any person who, without reasonable excuse, fails to prepare or submit a report mentioned in subsection (1) in accordance with the specifications under subsection (2), or to retain a report in accordance with subsection (3), 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 20 3 years or to both.

**Free trade zone operators to give information on goods in
contravention of written law**

25 **14J.**—(1) Where a licensed FTZ operator of a free trade zone has reason to suspect (including from a disclosure under section 14M(3)) that any goods in the possession, custody, charge or control of the licensed FTZ operator or any FTZ cargo handler at the free trade zone —

(a) are brought or intended to be brought into Singapore;

30 (b) are manufactured in a free trade zone and are brought or intended to be brought into customs territory;

(c) are manufactured; or

(d) are brought or intended to be brought out of Singapore,

in contravention of this Act or any other written law, the licensed FTZ operator must, within the prescribed period, disclose the suspicion to the Director-General in the form and manner specified by the Director-General.

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(2) Any licensed FTZ operator who, without reasonable excuse, fails to comply with subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

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PART 3B

REGULATION OF FREE TRADE ZONE CARGO HANDLERS, SHIPPING AGENTS AND AIR CARGO AGENTS

Director-General's directions to free trade zone cargo handlers

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14K.—(1) The Director-General may give an FTZ cargo handler at a free trade zone any directions that the Director-General considers necessary or expedient for the purposes of this Act and for the purpose of protecting the revenue.

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(2) The directions under subsection (1) include directions —

(a) relating to monitoring and managing the movement of goods within the free trade zone;

(b) requiring the FTZ cargo handler to implement systems and procedures to monitor and ensure the security of any premises within the free trade zone; and

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(c) requiring the FTZ cargo handler to provide information to any person in relation to any goods that are dangerous or prejudicial to the public interest, health or safety, generally or in specified circumstances.

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(3) Any FTZ cargo handler who fails to comply with a direction given by the Director-General under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Free trade zone cargo handlers to submit and retain reports

14L.—(1) The Director-General may, by written notice, require a person who is or was an FTZ cargo handler to prepare and submit (including on a periodic basis) to the Director-General a report containing any prescribed information and documents relating to any period when the person is or was an FTZ cargo handler.

(2) The report mentioned in subsection (1) must be submitted in the form and manner and within the period specified by the Director-General.

(3) A report mentioned in subsection (1) must be retained by the person who prepared the report for the prescribed period.

(4) Any person who, without reasonable excuse, fails to prepare or submit a report mentioned in subsection (1) in accordance with the specifications under subsection (2), or to retain a report in accordance with subsection (3), 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 3 years or to both.

Free trade zone cargo handlers to give information on goods in contravention of written law

14M.—(1) This section applies where an FTZ cargo handler at a free trade zone (called in this section the relevant free trade zone) has reason to suspect (called in this section a suspicion) that any goods in the possession, custody, charge or control of the FTZ cargo handler —

(a) are brought or intended to be brought into Singapore;

(b) are manufactured in the free trade zone and are brought or intended to be brought into customs territory;

(c) are manufactured; or

(d) are brought or intended to be brought out of Singapore,

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in contravention of this Act or any other written law.

(2) Where the FTZ cargo handler is also the licensed FTZ operator of the relevant free trade zone, the FTZ cargo handler must disclose the suspicion to the Director-General in accordance with section 14J(1).

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(3) Where the FTZ cargo handler is not the licensed FTZ operator of the relevant free trade zone, the FTZ cargo handler must, within the prescribed period, disclose the suspicion to the licensed FTZ operator of the relevant free trade zone in the form and manner specified by the licensed FTZ operator.

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(4) Any FTZ cargo handler who, without reasonable excuse, fails to comply with subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

Shipping agents and air cargo agents to give information on movement of goods

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14N.—(1) This section applies to any shipping agent or air cargo agent, or a shipping agent or air cargo agent within any class of shipping agents or air cargo agents, that may be prescribed in relation to any goods —

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(a) brought or intended to be brought into a free trade zone; or

(b) brought or intended to be brought out of a free trade zone.

(2) The shipping agent or air cargo agent must give to the FTZ cargo handler at the free trade zone providing the service or facility for the storing, processing or handling of the goods, any information, specified by the Director-General, that is contained

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in the bill of lading or airway bill (as the case may be) for those goods, in the form and manner and within the time specified by the Director-General.

(3) Any shipping agent or air cargo agent who, without reasonable excuse, fails to comply with 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.

Free trade zone cargo handlers to give information on movement of goods

14O.—(1) An FTZ cargo handler at a free trade zone must give to the Director-General the information obtained by the FTZ cargo handler under section 14N(2), in the form and manner and within the time specified by the Director-General.

(2) Any FTZ cargo handler who, without reasonable excuse, fails to comply with 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.

PART 3C

ADMINISTRATION AND ENFORCEMENT

Division 1 — Regulatory action in respect of free trade zone operator licences

Suspension or revocation, etc., of free trade zone operator licences

14P.—(1) Subject to subsection (2) or (3), if the Director-General is satisfied that —

(a) a licensed FTZ operator (called in this section a licensee) is contravening, or has contravened —

(i) any of the conditions of the licensee's licence;
or

(ii) any provision of this Act applicable to the licensee, contravention of which is not an offence;

(b) the licensee's application for or to renew the licence contained any information, document or statement that was false, or the application was misleading (including as a result of any omission) in any material particular, or the licensee otherwise obtained the licence or renewal through fraud or misrepresentation;

(c) the licensee is convicted of any offence under this Act committed during the term of the licence; or

(d) the public interest or national security of Singapore requires,

the Director-General may suspend or revoke (without any compensation) the licensee's licence.

(2) The Director-General may, in lieu of suspending or revoking a licensee's licence under subsection (1), do any one or more of the following:

(a) censure the licensee in writing;

(b) modify any condition of, or impose any new condition on, the licence;

(c) direct the licensee to do, or to refrain from doing, such things as are specified in a direction to rectify a contravention;

(d) for any contravention under subsection (1)(a), impose on the licensee a financial penalty of any amount, not exceeding \$10,000, that the Director-General thinks fit.

(3) Before exercising any powers under subsection (1) or (2), the Director-General must give written notice to the licensee concerned —

(a) stating that the Director-General intends to take regulatory action against the licensee under this section;

(b) specifying the type of action in subsection (1) or (2) the Director-General proposes to take, and each instance of contravention that is the subject of the action; and

(c) specifying the time (being not less than 14 days after the date of service of notice on the licensee) within which written representations may be made to the Director-General with respect to the proposed action.

(4) The Director-General may, after considering any written representation under subsection (3)(c), decide to take such regulatory action in subsection (1) or (2) as the Director-General considers appropriate.

(5) Where the Director-General has made any decision under subsection (4) against any licensee, the Director-General must serve on the licensee concerned a notice of the Director-General's decision.

(6) Subject to section 18, a decision to suspend or revoke a licence, or to impose a regulatory action in subsection (2), which is specified in the notice served under subsection (5) is to take effect from the date on which that notice is served, or on such other date as may be specified in the notice.

(7) The suspension or revocation of any licence under this section does not affect the enforcement by any person of any right or claim against the licensee or former licensee, or by the licensee or former licensee of any right or claim against any person.

(8) If the written notice under subsection (3) is given to a licensee while the licensee's licence remains in force, and the licence ceases to be in force before the Director-General takes any regulatory action in subsection (1) or (2), this section continues to apply and the Director-General may, at any time

after the licence ceases to be in force, take any regulatory action in subsection (2)(a) and (d) in relation to the former licensee.

(9) In any proceedings under this section in relation to the conviction of a licensee for a criminal offence, the Director-General is to accept the licensee's conviction as final and conclusive. 5

(10) Any financial penalty imposed on a licensee or former licensee under subsection (2)(d) may be recovered by the Director-General as a debt due to the Government.

(11) All financial penalties collected under this section must be paid into the Consolidated Fund. 10

Division 2 — Powers of enforcement, etc.

Interpretation of this Division

14Q. In this Division —

“computer” and “computer output” have the meanings given by section 2(1) of the Computer Misuse Act 1993; 15

“document” includes, in addition to a document in writing —

(a) any map, plan, graph or drawing;

(b) any photograph; 20

(c) any label, marking or other writing which identifies or describes anything of which it forms a part, or to which it is attached by any means;

(d) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; 25

(e) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are embodied so as to be capable (with 30

or without the aid of some other equipment) of being reproduced from it; and

- (f) any paper or other material on which there are marks, impressions, figures, letters, symbols or perforations having a meaning for persons qualified to interpret them;

“writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

Entering free trade zone to monitor compliance

14R.—(1) Subject to subsection (2), for the purpose of administering or enforcing this Act or determining whether this Act has been contravened, an officer of customs may, at any time —

- (a) enter any free trade zone; and
(b) exercise any of the powers set out in sections 14S, 14T, 14U and 14V.

(2) Before exercising the power of entry under subsection (1), the officer of customs must —

- (a) declare the office of the officer of customs; and
(b) produce to the person against whom the officer of customs is acting any authority card that the Director-General may direct officers of customs to carry.

Power to search free trade zone, etc.

14S.—(1) Without affecting section 14W, an officer of customs who enters any free trade zone under section 14R has full and free access to any area within or at the perimeter of the free trade zone and any thing at or in the free trade zone, and may exercise all or any of the following powers for the purpose of administering or enforcing this Act or determining whether this Act has been contravened:

- (a) search the free trade zone for any thing;
- (b) examine any activity conducted in the free trade zone;
- (c) examine and check the operation of any thing in the free trade zone;
- (d) take any photograph or make any video or audio recording or sketch of any activity or thing mentioned in paragraph (b) or (c); 5
- (e) carry out any inspection, audit or stock check in the free trade zone;
- (f) require any person in the free trade zone to do one or both of the following: 10
 - (i) provide any information within the knowledge of that person;
 - (ii) take reasonable steps to provide any document;
- (g) inspect any goods, document, computer or computer output in the free trade zone; 15
- (h) without payment, make copies of any such document or computer output, or take extracts from any such goods, document, computer or computer output;
- (i) take into the free trade zone any equipment and materials that the officer of customs requires for the purpose of exercising any power under this section; 20
- (j) without payment, take possession of any thing in the free trade zone where, in the opinion of the officer of customs — 25
 - (i) the inspection, checking, copying of or extraction from any part of such thing cannot reasonably be performed without taking possession of the thing;
 - (ii) such thing may be interfered with or destroyed unless possession is taken; or 30

(iii) such thing may be required as evidence in proceedings for a contravention of this Act.

(2) An officer of customs may, in addition to the powers in subsection (1) —

5 (a) require any person who is able to operate any thing in the free trade zone to do so for the purpose of —

 (i) enabling the officer of customs to exercise any power under this section; or

10 (ii) enabling the officer of customs to ascertain whether it, or a disc, tape or other storage device that can be used with or is associated with it, contains information that is relevant to assessing compliance with this Act;

15 (b) if any information is found in exercise of the power in paragraph (a)(ii) —

 (i) require the information to be provided in documentary form, and keep or copy the documents so provided; or

20 (ii) transfer, or require the transfer of, the information to a disc, tape or other storage device, and remove it from the free trade zone; and

25 (c) in respect of any thing that the officer of customs takes possession of, require any person in the free trade zone to provide the officer of customs with or grant the officer of customs access to any information, code, software or technology required to operate or access data contained in such thing, or to retransform, unscramble or decrypt data contained in such thing
30 into readable and comprehensive format or text.

(3) Any person who, without reasonable excuse, fails to comply with a requirement of an officer of customs under subsection (1) or (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 18 months or to both.

(4) To avoid doubt, a reference in this section to a free trade zone includes any building, structure, facility or conveyance in the free trade zone.

5

Detention of goods for inspection

14T.—(1) Where the Director-General has reason to suspect that any person has committed an offence under this Act, the Director-General may by written notice require an FTZ cargo handler at a free trade zone to detain any goods in the free trade zone, that are in the possession, custody, charge or control of the FTZ cargo handler and in relation to which the offence is suspected to have been committed, for inspection by an officer of customs under section 14S(1)(g).

10

(2) Subject to subsection (3), the officer of customs must complete inspection of the goods within 48 hours after the officer of customs is given access to the goods for the purposes of the inspection.

15

(3) Where the Director-General certifies that, due to the nature or quantum of the goods or the complexity of the inspection required, the inspection of the goods cannot be completed within the time specified in subsection (2), then the inspection need not be completed within that time but must in any case be completed as soon as practicable.

20

(4) Any FTZ cargo handler who fails to comply with a written notice under 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 18 months or to both.

25

Power to require goods to be brought to examination station for inspection

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14U.—(1) For the more convenient exercise of the power of inspection of any goods conferred by section 14S(1)(g) or 14T, an officer of customs may —

(a) remove any goods required to be inspected to an examination station; or

(b) require the goods to be so removed by the owner of the goods or the owner's agent or any person having the possession, custody, charge or control of the goods.

(2) Any person who fails to comply with any requirement under subsection (1)(b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000.

(3) Upon the failure by a person to comply with a requirement under subsection (1)(b), an officer of customs may remove the goods in the manner provided by subsection (1) and all the expenses of such removal (as certified by the Director-General) are recoverable by the Director-General as a debt due to the Government from that person or from the owner of the goods.

(4) In this section, "examination station" means any place which has been prescribed under section 143(1)(d) of the Customs Act 1960 as a customs office or customs station.

Powers of arrest

14V.—(1) Any officer of customs may arrest without warrant —

(a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence under section 14S(3); or

(b) any person reasonably suspected of having committed, attempted to commit, employed or aided another person to commit, or abetted the commission of, an offence under section 14S(3),

and may search or cause to be searched, any person so arrested.

(2) A woman must not be searched except by a woman.

(3) An officer of customs making an arrest without warrant must, without unnecessary delay and subject to this section as to

bail or previous release, take or send the person arrested before a Magistrate's Court.

(4) An officer of customs must not detain in custody a person arrested without a warrant for a longer period than under the circumstances of the case is reasonable. 5

(5) Such period must not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(6) A person who has been arrested by an officer of customs must not be released except on the person's own bond or on bail or under the special order in writing of a Magistrate or a senior officer of customs. 10

(7) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which the person is so liable, or after arrest makes his or her escape, the person may, at any time afterwards, be arrested and be dealt with as if the person had been arrested at the time of committing the offence. 15

Power to require persons to provide information and documents

14W.—(1) For the purposes of administering or enforcing this Act or determining whether this Act has been contravened, an officer of customs may by written notice require any licensed FTZ operator, FTZ cargo handler, shipping agent or air cargo agent, or any officer or employee of any licensed FTZ operator, FTZ cargo handler, shipping agent or air cargo agent (called in this section the relevant person) to do one or both of the following: 20

- (a) provide any officer of customs with any information within the knowledge of the relevant person;
- (b) provide any officer of customs with any document in the possession, custody, charge or control of the relevant person. 30

(2) The notice in subsection (1) may —

- (a) specify a time and place at which the relevant person must provide the information or document, in the form and manner specified in the notice; or
- (b) require the relevant person to attend personally before any officer of customs, at a place and time specified in the notice, to provide the information or document, in the form and manner specified in the notice.

(3) Any person that, without reasonable excuse, fails to comply with a notice of an officer of customs under this section 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 12 months or to both.

General power to require information or documents

14X.—(1) The power of an officer of customs to require a person to provide any information or document under section 14S or 14W 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 information or document;
- (b) if the information or document is not provided, to require that person to state, to the best of the person's knowledge and belief, from whom the information or document may be obtained or where it is;
- (c) if the information is recorded otherwise than in legible form, to require the information to be provided in legible form without payment; and
- (d) in the case of a document, without payment —
 - (i) to inspect, copy or take extracts from the document and, in relation to a document kept in electronic form, to inspect, copy or take extracts from the document in legible form;

(ii) to take possession of the document if in the opinion of the officer of customs —

(A) the inspection, copying or extraction cannot reasonably be performed without taking possession of the document; 5

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

(C) the document may be required as evidence in proceedings for an offence under this Act; and 10

(iii) for the purposes of sub-paragraph (ii), to require the person to provide the officer of customs with or grant the officer of customs access to any information, code, software or technology required to access the document or data contained in the document, or to retransform, unscramble or decrypt data contained in the document into readable and comprehensive format or text. 15 20

(2) A statement made by any person providing information under section 14S(1)(f) or 14W(2)(b) must —

(a) be reduced to writing;

(b) be read over to the person;

(c) if the person does not understand English, be interpreted for the person in a language that the person understands; and 25

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

(3) A person is not obliged under section 14S or 14W to provide (including through the production of a document) — 30

(a) any information that the person is under any statutory obligation (other than sections 128, 128A, 129 and 131 of the Evidence Act 1893) to observe secrecy; or

(b) any information subject to legal privilege.

(4) The generality of the term “reasonable excuse” in sections 14S(3) and 14W(3) is not affected by subsection (3).

(5) Except as provided under subsection (3), it is not a defence to a charge under section 14S(3) or 14W(3) for a failure to provide any information or document sought in accordance with that provision, that the person is under a duty of secrecy in respect of that information or the contents of that document (called in this section a displaced duty of secrecy).

(6) A person that in good faith complies with a requirement or notice to provide any information or document is not to be treated as being in breach of a displaced duty of secrecy.

(7) No civil or criminal action for a breach of a displaced duty of secrecy, other than a criminal action for an offence under section 14Y, lies against a person —

(a) for providing any information or document if the person did so in good faith in compliance with a requirement or notice under section 14S or 14W; or

(b) for doing or omitting to do any act if the person did or omitted to do the act in good faith and as a result of complying with such a requirement or notice.

Offences for false statements, forging of documentation, etc.

14Y.—(1) Any person that, in response to any requirement or notice under this Act, provides any information, document or statement that the person knows is false or misleading in any material particular, 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 12 months or to both.

(2) Any person that —

(a) counterfeits or falsifies, or uses, when counterfeited or falsified, any document which is or may be required under this Act; or

- (b) fraudulently alters any document, or counterfeits the seal, signature, initials or other mark of, or used by, any officer of customs for the verification of any such document or for the security of any goods,

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.

Penalty for assaulting or obstructing officers of customs, rescuing goods, resisting arrest and escaping from custody

14Z. Any person who —

- (a) assaults, abuses or obstructs any officer of customs or any person acting in the officer's aid or assistance, or duly employed for the prevention of offences under this Act, in the execution of his or her duty or in the due detention of any goods liable to detention under this Act;

- (b) rescues or endeavours to rescue, or causes to be rescued, anything which has been duly detained;

- (c) before or after any detention of any package or goods, staves, breaks or otherwise destroys the package or goods to prevent the detention of the package or goods or the securing of the same; or

- (d) intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or herself or of any other person, or escapes or attempts to escape from any custody in which he or she is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained,

shall be guilty of an offence and shall be liable —

- (e) on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 18 months or to both; and

- (f) in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 and to imprisonment for a term not exceeding 3 years.”.

Deletion of section 15

- 5 **11.** In the principal Act, delete section 15.

New section 16A

- 12.** In the principal Act, after section 16, insert —

“Preservation of secrecy

10 **16A.—**(1) Subject to subsections (2) and (5), the following persons (each called in this section a specified person) must not publish, or communicate or disclose to any person, any particulars, information or document submitted or given to the specified person for the purposes of this Act, unless the specified person has the prior written consent of the person to whom the
15 information relates:

- (aa) an authority;
- (a) a licensed FTZ operator;
- (b) an FTZ cargo handler;
- (c) a shipping agent;
- 20 (d) an air cargo agent;
- (e) any officer or employee of an authority, a licensed FTZ operator, an FTZ cargo handler, a shipping agent or an air cargo agent;
- (f) an officer of customs;
- 25 (g) any person employed or engaged in the administration of this Act.

(2) Subsection (1) does not apply where the publication, communication or disclosure is necessary for the purposes of —

- (a) a prosecution under this Act;

- (b) enabling an officer of customs to enforce a provision of this Act;
- (c) enabling an officer of customs to investigate a suspected offence under this Act;
- (d) a prosecution of any offence under any written law (other than this Act) that may be prescribed; 5
- (e) enabling a public agency to enforce any provision of any written law (other than this Act) that may be prescribed;
- (f) enabling a public agency to investigate any suspected offence under any written law (other than this Act) that may be prescribed; 10
- (g) subject to subsection (3), enabling a public agency to discharge its function, duty or power of collecting, compiling and analysing the particulars, information or document, and — 15
 - (i) providing its collection, compilation or analysis to another public agency for policy formulation or review by that other public agency; or
 - (ii) publishing its collection, compilation or analysis in any form that will not identify, and is not reasonably capable of being used to identify, any person to which the particulars, information or document relates; 20
- (h) subject to subsection (3), enabling a public agency to take steps to protect individuals and communities from risks or threats to public health or safety, or to protect against risks or threats to the security of Singapore (including her financial and economic security); 25
- (i) satisfying a request for information under section 353 of the Copyright Act 2021, section 59B or 67D of the Geographical Indications Act 2014, section 68I of the 30

Registered Designs Act 2000, or section 85B or 93E of the Trade Marks Act 1998; or

- (j) complying with any request pursuant to a provision of any prescribed agreement, where the conditions specified in subsection (8) are satisfied.

(3) No particulars, information or document mentioned in subsection (1) may be published, communicated or disclosed under subsection (2)(g) and (h) except with the approval of the Minister.

(4) The approval of the Minister mentioned in subsection (3) may be given in respect of —

(a) a specific public agency or a class of public agencies; and

(b) a specific request for particulars, information or documents, or requests for particulars, information or documents falling within any class that the Minister may specify.

(5) Nothing in subsection (1) prevents the Minister, and any public officer assisting the Minister and duly authorised by the Minister for the purposes of this subsection, from having access to any particulars, information or document mentioned in subsection (1) that may be necessary for the performance of the Minister's official duties in connection with this Act.

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

(7) Any person having possession of any particulars, information or document that to the person's knowledge has been published, communicated or disclosed in contravention of this section, who publishes, communicates or discloses those particulars, information or document to any other person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.

(8) The conditions mentioned in subsection (2)(j) are as follows:

- (a) the particulars, information or documents requested by the foreign country are available to the Director-General; 5
- (b) unless the Government otherwise allows, the foreign country undertakes to keep the information given confidential at all times;
- (c) the disclosure of the information is not likely to prejudice the essential security interests of Singapore. 10

(9) In this section —

“foreign country” means any country or territory outside Singapore;

“prescribed agreement” means an agreement between Singapore and a foreign country which is prescribed as an agreement for the purpose of subsection (2)(j); 15

“public agency” means a public officer, an Organ of State or a ministry or department of the Government, or a public authority established by or under any public Act for a public purpose or a member, an officer or an employee, or any department, of the public authority.”. 20

New section 17A

13. In the principal Act, after section 17, insert —

“Protection from personal liability

17A. No liability shall lie personally against any officer of customs or other person acting under the direction of the Director-General for anything done or intended to be done in good faith and with reasonable care in — 25

- (a) the exercise or purported exercise of any power under this Act; or 30
- (b) the performance or purported performance of any function under this Act.”.

Amendment of section 18

14. In the principal Act, in section 18 —

(a) in the section heading, after “**authority**”, insert “, **licensed free trade zone operator**”;

(b) delete “or any of its regulations”;

(c) after “with the authority”, insert “, a licensed FTZ operator”;

(d) delete “then unless it is specifically provided that the decision is at the discretion of the authority or the Director-General,”;

(e) renumber the section as subsection (1) of that section; and

(f) after subsection (1), insert —

“(2) Unless otherwise expressly provided, an appeal against the decision of the authority, a licensed FTZ operator or the Director-General does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister, the decision appealed against must be complied with until the determination of the appeal.”.

New section 18A

15. In the principal Act, after section 18, insert —

“Service of documents

18A.—(1) A document that is permitted or required by this Act to be served on, given to or submitted to a person may be served, given or submitted as described in this section.

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

(a) by giving it to the individual personally;

(b) by sending it by 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; or

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

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

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

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

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

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

(a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager; 20

(b) by leaving it at, or by sending it by post to, the registered office or principal office in Singapore of the body corporate or unincorporated association; or

(c) by sending it by email to the last email address of the body corporate or unincorporated association. 25

(5) Service of a document takes effect —

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

(b) if the document is sent by post, 2 days after the day the document was posted (even if it is returned undelivered). 30

(6) However, service of any document under this Act on a person by email may be effected only with the person's prior written consent to service in that way.

(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

(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;

“document” includes a notice, direction or order permitted or required by this Act to be served, given or submitted;

“last email address” means 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;

“limited liability partnership” has the meaning given by the Limited Liability Partnerships Act 2005;

“residential address” means an individual's usual or last known place of residence in Singapore.”.

Deletion of section 19

16. In the principal Act, delete section 19.

Amendment of section 20

17. In the principal Act, in section 20, delete “or any of its regulations”.

Deletion of section 21

18. In the principal Act, delete section 21.

Amendment of section 22

19. In the principal Act, in section 22, delete “or any of its regulations”.

Amendment of section 23

20. In the principal Act, in section 23(1), delete “or any of its regulations”.

New section 23A

21. In the principal Act, after section 23, insert —

“Composition of offences

23A.—(1) The Director-General 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:

(a) one half of the amount of the maximum fine that is prescribed for the offence;

(b) \$5,000.

(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 must be paid into the Consolidated Fund.”.

Amendment of Part 7 heading

22. In the principal Act, in Part 7, in the Part heading, replace “REGULATIONS” with “GENERAL”.

New section 23B

23. In the principal Act, before section 24, insert —

“General exemption

23B. The Minister may, by order in the *Gazette*, exempt any person or class of persons from all or any of the provisions of

this Act, either generally or in a particular case and subject to any conditions that the Minister may specify in the order.”.

Amendment of section 24

24. In the principal Act, in section 24, after subsection (1), insert —

“(1A) Without affecting subsection (1), the Minister may make regulations for or with respect to, or to otherwise make provision for, all or any of the following matters:

(a) the requirements applicable to a licensed FTZ operator in relation to the administration, maintenance and operation of a free trade zone;

(b) the requirements applicable to an FTZ cargo handler in relation to monitoring and managing the activities undertaken in respect of any goods within a free trade zone;

(c) the requirements governing manufacture within a free trade zone;

(d) the requirements in relation to an application for an FTZ operator licence;

(e) the form of any application, notice, appeal, report, record, statement or other document mentioned in this Act;

(f) the preparation of any application, notice, appeal, report, record, statement or other document mentioned in this Act, including the person that must prepare the same and any criteria that the person must satisfy;

(g) the information and documents to be included in or to accompany any application, notice, appeal, report, record, statement or other document mentioned in this Act;

(h) the period within which any application, notice, appeal, report, record, statement or other document is to be submitted (including at prescribed intervals);

- (i) the manner in which any application, notice, appeal, report, record, statement or other document mentioned in this Act is to be submitted, including the person that must submit the same and any criteria that the person must satisfy; 5
- (j) any fees and charges payable —
 - (i) for any application under, or for any purpose of, this Act;
 - (ii) in addition to or in lieu of any fee under sub-paragraph (i), for any licence granted or renewed under this Act; or 10
 - (iii) for anything done or any services rendered by the Director-General or any officer of customs under or by virtue of this Act,
 and for the payment of the fees and charges in instalments or on a periodic basis; 15
- (k) any other matter that is required or permitted to be prescribed to give effect to this Act.
- (1B) For the purpose of subsection (1A)(j), the regulations may prescribe different rates of fees and charges — 20
 - (a) in respect of different classes of persons or free trade zones;
 - (b) in respect of different periods (including different periods during the validity period of a licence); or
 - (c) on any other differential basis. 25
- (1C) To avoid doubt, without affecting any other written law or rule of law, any fee prescribed in regulations that becomes payable may be recovered by the Director-General as a debt due to the Government.
- (1D) Regulations made under this section may make different provision — 30
 - (a) for different classes, descriptions or types of goods or persons; and

(b) for different circumstances.

(1E) The Minister may, in making any regulations, provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$5,000.”.

5 **Miscellaneous amendments**

25. In the principal Act —

- (a) in section 2, delete the definition of “authority”;
- (b) in section 3, in the section heading, delete “**and appointment of authority**”;
- 10 (c) in section 3, delete subsection (2);
- (d) in the following provisions, delete “authority or” wherever it appears:
 - Section 5(2)(b)
 - Section 8(1) and (2)
 - 15 Section 10(1) and (2);
- (e) in section 10A(1), delete “the authority or”;
- (f) delete Part 3;
- (g) in section 14A(1), replace “Subject to subsection (3), a” with “A”;
- 20 (h) in section 14A, delete subsection (3);
- (i) delete section 16;
- (j) in section 16A(1), delete paragraph (aa);
- (k) in section 16A(1)(e), delete “an authority,”;
- (l) in section 17, delete “or a member or employee of the
- 25 authority”;
- (m) in section 18, in the section heading, delete “**authority,**”; and
- (n) in section 18(1) and (2), delete “the authority,”.

Consequential amendments to Customs Act 1960

26.—(1) In the Customs Act 1960 —

(a) in section 3(1), after the definition of “in transit”, insert —

““licensed FTZ operator” has the meaning given
by section 2 of the Free Trade Zones
Act 1966;”;

5

(b) in section 34(2)(a), after “an authority”, insert “or a
licensed FTZ operator”;

(c) in section 42(1)(b), (3)(a) and (3A)(b)(i), after “the
authority”, insert “or licensed FTZ operator”; and

10

(d) in section 42(3) and (3A), replace “the authority, occupier”
with “the authority, licensed FTZ operator, occupier”.

(2) In the Customs Act 1960 —

(a) in section 34(2)(a), as amended by subsection (1)(b),
delete “an authority or”;

15

(b) in section 42(1)(b), (3)(a) and (3A)(b)(i), as amended by
subsection (1)(c), delete “authority or”; and

(c) in section 42(3) and (3A), as amended by subsection (1)(d),
delete “authority,”.

Saving and transitional provision

20

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

25

EXPLANATORY STATEMENT

This Bill seeks to amend the Free Trade Zones Act 1966 (the Act) for the following main purposes:

- (a) to provide for the administration, maintenance and operation of free trade zones by licensed free trade zone operators;
- (b) to establish a framework for the licensing of free trade zone operators;
- (c) to impose various obligations on free trade zone cargo handlers, shipping agents and air cargo agents;
- (d) to empower the Director-General of Customs (the Director-General) to require licensed free trade zone operators and free trade zone cargo handlers to submit and retain reports;
- (e) to require shipping agents and air cargo agents to give information relating to goods brought into or intended to be brought into a free trade zone;
- (f) to provide officers of customs with various powers of investigation and enforcement for the purpose of administering or enforcing the Act or determining if the Act is being or has been complied with;
- (g) generally to enhance the administration of the Act.

In relation to the administration, maintenance and operation of free trade zones, this is currently being undertaken by authorities appointed by the Minister for Finance (the Minister). The authorities will continue administering, maintaining and operating the free trade zones in respect of which they are appointed in the period until free trade zone operators are licensed by the Director-General (licensed FTZ operators) in place of the authorities (transition period). Once all free trade zones are being administered, maintained and operated by licensed FTZ operators, the Act will no longer need to provide for those authorities. The Bill makes various amendments to the Act to remove references to authorities, which amendments will be brought into operation at the end of the transition period.

The Bill also makes consequential amendments to the Customs Act 1960.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to include the regulation of activities in free trade zones.

Clause 3 amends section 2 to delete the definition of “Committee”, and insert new definitions of “air cargo agent”, “aircraft”, “conveyance”, “free trade zone cargo handler” or “FTZ cargo handler”, “free trade zone operator” or “FTZ operator”, “free trade zone operator licence” or “FTZ operator licence”, “licensed FTZ operator”, “shipping agent”, “tax”, “taxable goods” and “vessel”.

The new definition of “free trade zone cargo handler” or “FTZ cargo handler” will cover a person who provides any service or facility for the storing, processing or handling of goods at a free trade zone, for any goods being brought into or out of Singapore. To avoid doubt, an FTZ cargo handler may also be an FTZ operator of a free trade zone.

The new definition of “free trade zone operator” or “FTZ operator” will cover a person who administers, maintains and operates any free trade zone.

Clause 4 deletes section 4 and enacts a new section 4, as a Free Trade Zone Advisory Committee is no longer required to advise the Minister.

The new section 4 provides for the administration of the Act by the Director-General and empowers the Director-General to delegate the powers conferred on the Director-General by the Act.

Clause 5 amends section 5(2) to make a consequential amendment in light of the administration, maintenance and operation of free trade zones being undertaken by licensed FTZ operators. An amendment is also made to delete the reference to regulations made under the Customs Act 1960, as section 26A of the Interpretation Act 1965 applies to the reference to the Customs Act 1960.

Clause 6 amends section 6(1) to provide that any person who intends, in a free trade zone, to manipulate any goods for entry into customs territory (where any goods or materials used in the manipulation are dutiable), or to manufacture any goods, must give the Director-General written notice of this intention and obtain the Director-General’s prior written permission.

Section 6(2) is amended to remove the requirement for the manipulation or manufacture to be carried out under customs supervision.

Section 6(4) is amended to provide that recoverable waste sent into customs territory is taxable pursuant to section 8(4) of the Goods and Services Tax Act 1993 in its condition and quantity and at its weight at the time of entry, which reiterates the position under the Goods and Services Tax Act 1993.

Clause 7 amends section 7 to delete subsections (2) and (3). Subsection (2) of section 7 is not necessary, because the rate of exchange to be used for determining the equivalent in Singapore currency of any foreign currency for the purposes of determining the customs duty for any goods subject to customs duty is to be ascertained in accordance with the Customs Act 1960.

Subsection (3) of section 7 is also not necessary, because the valuation applicable to any goods subject to customs duty is already required to be ascertained in accordance with the Customs Act 1960.

Clause 8 amends section 8 to make a consequential amendment in light of the administration, maintenance and operation of free trade zones being undertaken

by licensed FTZ operators and to renumber the section as subsection (1) of section 8.

A new subsection (2) is inserted to require authorities and licensed FTZ operators to submit to the Director-General prescribed information and documents, within the prescribed period, in respect of any authorisation for retail trade in a free trade zone granted by the authority or licensed FTZ operator under section 8(1).

Clause 9 deletes sections 9 and 10 and inserts new sections 9, 10 and 10A.

The new section 9 prohibits the use or consumption of dutiable goods and taxable goods in a free trade zone, unless the customs duty and goods and services tax on the goods have been paid.

The existing section 10 empowering the Minister to approve manufacture in free trade zones is no longer necessary, as manufacture in free trade zones may be adequately regulated through the permission granted by the Director-General under section 6.

The new section 10 prohibits a person from entering or residing in a free trade zone without the permission of the authority or licensed FTZ operator of the free trade zone. Despite any permission granted by the authority or licensed FTZ operator, if the Director-General, by written order to any person, prohibits the person from entering or residing in the free trade zone, that person is prohibited from entering or residing in the free trade zone. In addition, the discretion exercised by a licensed FTZ operator to permit a person to enter or reside in the free trade zone under the new section 10 is also subject to licence conditions that may be imposed under the new section 14E on the licensed FTZ operator.

The new section 10A sets out the penalties for contravening the provisions of Part 2, in lieu of section 21 (which is to be deleted). The penalties for offences under Part 2 are also generally increased. In the case of any contravention relating to section 5(2), 6(1) or 9, the penalty is raised to a fine of up to \$10,000 or the equivalent amount of the customs duty or goods and services tax (whichever is greater), to imprisonment for a term not exceeding 12 months or to both. In the case of any contravention of section 8, the penalty is a fine of up to \$10,000. In the case of any contravention in connection with section 10, the penalty is a fine of up to \$5,000.

Clause 10 introduces new Parts 3A (regulation of free trade zone operators), 3B (regulation of free trade zone cargo handlers, shipping agents and air cargo agents) and 3C (administration and enforcement).

The new Part 3A comprises 3 Divisions.

Division 1, which comprises new sections 14A to 14E, sets out general provisions relating to licensing of free trade zone operators.

The new section 14A creates an offence of unauthorised administration, maintenance or operation of a free trade zone. A person must not administer, maintain or operate a free trade zone unless the person is authorised to do so by a free trade zone operator licence for that free trade zone. However, this prohibition does not apply to an authority in respect of the free trade zone for which the authority is appointed.

The new section 14B provides for applications for or to renew a free trade zone operator licence. These must be made to the Director-General. The Director-General may refuse to consider an application that is incomplete or not made in accordance with the Act.

The new section 14C gives the Director-General the discretion to grant or renew free trade zone operator licences. A free trade zone operator licence is not transferrable.

The new section 14D deals with the validity of free trade zone operator licences. Each free trade zone operator licence granted or renewed is valid for such period as may be specified in the licence unless, following regulatory action under the new section 14P, the licence is earlier suspended or revoked.

The new section 14E empowers the Director-General, at any time, to impose any conditions on or modify such conditions of the free trade zone operator licence as the Director-General considers requisite or expedient having regard to the purposes of the Act.

These conditions include, but are not limited to, conditions —

- (a) requiring the licensed FTZ operator to support or assist any officer of customs performing any duty under any written law;
- (b) requiring the licensed FTZ operator to appoint a representative for the purposes of ensuring that the licensed FTZ operator complies with (among other things) the licence conditions;
- (c) requiring the licensed FTZ operator to construct, install and maintain any structure, facility or device, for the purpose of ensuring the security of the free trade zone, for officers of customs required to be in the free trade zone, or that is necessary for the proper and efficient functioning of the free trade zone;
- (d) requiring the licensed FTZ operator to implement systems and procedures to monitor the free trade zone to ensure its security;
- (e) requiring the licensed FTZ operator to monitor the activities of any person within the free trade zone for the purposes of ensuring activities are not carried out in contravention of the Act or any other written law;
- (f) requiring the licensed FTZ operator to screen any person who intends to carry out any activities or otherwise operate in the free trade zone, to

ensure that the person is not a prohibited person specified by the Director-General;

- (g) requiring the licensed FTZ operator to refuse to grant, to any prohibited person specified by the Director-General, permission under the new section 10(1) to enter or reside in the free trade zone;
- (h) requiring the licensed FTZ operator to provide or publish in the free trade zone certain information;
- (i) requiring the licensed FTZ operator to provide information in respect of any goods or operations that are dangerous or prejudicial to the public interest, health or safety, to specify the classes of goods the licensed FTZ operator must order, under the new section 14H(1), exclusion or removal from the free trade zone, and to specify the types of operations the licensed FTZ operator must order, under the new section 14H(1), discontinuance in the free trade zone;
- (j) specifying the types of retail trade the licensed FTZ operator may authorise, and the conditions the licensed FTZ operator may impose, under the new section 8(1);
- (k) specifying the persons whom the licensed FTZ operator may permit to erect buildings or other structures in the free trade zone, the type of buildings and other structures that such person may so erect, and the conditions that the licensed FTZ operator may impose, under the new section 14G(1); and
- (l) requiring the licensed FTZ operator to ensure that any lessee (including an FTZ cargo handler) of the licensed FTZ operator, of any immovable property in the free trade zone, obtains the licensed FTZ operator's approval before sub-leasing the immovable property to any other person.

Division 2, which comprises new sections 14F to 14H, sets out the duties and powers of a licensed FTZ operator.

The new section 14F empowers the Director-General to require a licensed FTZ operator to comply with any directions that are necessary to ensure compliance with the provisions of the Act or for the purposes of protecting the revenue.

The new section 14G empowers a licensed FTZ operator to permit any person to erect any buildings or other structures within the free trade zone, subject to any conditions that the licensed FTZ operator may impose. However, such permission by itself does not constitute a vested right as against the licensed FTZ operator or the Government. The licensed FTZ operator's discretion to permit a person to erect buildings or structures, and to impose conditions, is subject to licence conditions that the Director-General may impose under the new section 14E on the licensed FTZ operator.

The new section 14H empowers licensed FTZ operators and the Director-General to order the removal or exclusion of goods from, or the discontinuance of operations in, free trade zones. The licensed FTZ operator's power is also subject to licence conditions that the Director-General may impose under the new section 14E on the licensed FTZ operator. Where any person fails to comply with such an order, the Director-General is empowered to enter the free trade zone to take measures or do work necessary to give effect to the order. To avoid doubt, nothing in the new section 14H prevents the Director-General from delegating his or her powers granted under that section, that is otherwise permitted to be delegated under the new section 4 or by any other law.

Division 3, which comprises new sections 14I and 14J, sets out the duties of licensed FTZ operators with regard to the preparing and giving of reports and information.

The new section 14I empowers the Director-General to require a person who is or was a licensed FTZ operator to prepare and submit a report containing information and documents prescribed by regulations relating to any period for which the person was so licensed. The person who prepared the report must retain the report for the period prescribed by regulations.

The new section 14J requires a licensed FTZ operator of a free trade zone to disclose certain information to the Director-General where the licensed FTZ operator has reason to suspect that any goods in the possession, custody, charge or control of the licensed FTZ operator or an FTZ cargo handler providing cargo handling services in the free trade zone —

- (a) are brought or intended to be brought into Singapore;
- (b) are manufactured in a free trade zone and are brought or intended to be brought into customs territory;
- (c) are manufactured; or
- (d) are brought or intended to be brought out of Singapore,

in contravention of the Act or any other written law.

Such a reason to suspect that the goods are in contravention of the Act or other written law may arise out of any information disclosed to the licensed FTZ operator under the new section 14M.

The new Part 3B, which comprises new sections 14K to 14O, sets out the duties of an FTZ cargo handler.

The new section 14K empowers the Director-General to require an FTZ cargo handler to comply with any directions that are necessary to ensure compliance with the provisions of the Act or for the purposes of protecting the revenue.

These directions include, but are not limited to, directions —

- (a) relating to monitoring and managing the movement of goods by the FTZ cargo handler operating in the free trade zone;
- (b) requiring the FTZ cargo handler to implement systems and procedures to monitor and ensure the security of any premises within the free trade zone; and
- (c) requiring the FTZ cargo handler to provide information to any person in relation to any goods that are dangerous or prejudicial to the public interest, health or safety (whether generally or under specified circumstances).

The new section 14L empowers the Director-General to require an FTZ cargo handler to prepare and submit a report containing information and documents prescribed by regulations. The FTZ cargo handler must retain the report for the period prescribed by regulations.

The new section 14M requires an FTZ cargo handler providing cargo handling services at a free trade zone to disclose certain information to the licensed FTZ operator of the free trade zone if the FTZ cargo handler has reason to suspect that any goods in the possession, custody, charge or control of the FTZ cargo handler —

- (a) are brought or intended to be brought into Singapore;
- (b) are manufactured in a free trade zone and are brought or intended to be brought into customs territory;
- (c) are manufactured; or
- (d) are brought or intended to be brought out of Singapore,

in contravention of the Act or any other written law.

However, where the FTZ cargo handler is the licensed FTZ operator of the free trade zone concerned, then that FTZ cargo handler must disclose the information to the Director-General in accordance with the new section 14J(1).

The new section 14N requires any prescribed shipping agent, air cargo agent, and any shipping agent and air cargo agent within any prescribed class of shipping agents and air cargo agents, to give specified information contained in a bill of lading or airway bill (as the case may be) for goods that are brought into or intended to be brought into, or brought out of or intended to be brought out of, a free trade zone, to the FTZ cargo handler providing cargo handling services for those goods in the free trade zone.

The new section 14O requires an FTZ cargo handler who obtains any information under the new section 14N(2) to give the information to the Director-General.

The new Part 3C comprises 2 Divisions.

Division 1 comprises the new section 14P. The new section 14P sets out the various regulatory actions that the Director-General can take against a licensed FTZ operator (the licensee) if the Director-General is satisfied that the licensee is contravening or not complying with, or has contravened or failed to comply with any of the conditions of its licence, or any provision of the Act applicable to the licensee. There are also other grounds on which the Director-General may take regulatory action against a licensee.

The Director-General may, after observing the process in the new section 14P, suspend or revoke the FTZ operator licence. In lieu of suspending or revoking the FTZ operator licence, the Director-General can impose one or more of the following:

- (a) issue a letter of censure;
- (b) modify a condition of the licence or impose a new condition;
- (c) direct the licensee to do, or to refrain from doing, such things as are specified in a direction;
- (d) for any contravention of a licence condition or provision of the Act, require the licensee to pay a financial penalty not exceeding \$10,000.

Division 2, which comprises the new sections 14Q to 14Z, sets out the powers of enforcement of the Director-General and officers of customs under the Act.

The new section 14Q defines the terms “computer”, “computer output”, “document” and “writing” for the purposes of the powers granted to officers of customs under Division 2.

The new sections 14R, 14S, 14W and 14X provide officers of customs with various powers for the purpose of administering or enforcing the Act or determining if the Act is being or has been complied with, including entering any area within or at the perimeter of a free trade zone, requesting for information and documents, carrying out any inspection, and examining witnesses.

The new section 14T empowers the Director-General, where the Director-General has reason to suspect that an offence has been committed under the Act, to require an FTZ cargo handler to detain any goods in the free trade zone that are under the possession, custody, charge or control of the FTZ cargo handler and in relation to which the offence is suspected to have been committed, for the purposes of any inspection by an officer of customs. The officer of customs must complete the inspection within 48 hours after the officer of customs is given access to the goods for the purposes of the inspection unless, due to the nature or quantum of the goods or the complexity of the inspection required, the inspection cannot be completed within such time. In such a case, the inspection must be completed as soon as practicable.

The new section 14U provides for goods that are more conveniently inspected at an examination station, to be removed to an examination station for the inspection.

The new section 14V empowers an officer of customs to arrest any person without warrant, and take or send the person before a Magistrate's Court, if —

- (a) the person is found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence under the new section 14S(3); or
- (b) the person is reasonably suspected of having committed, attempted to commit, employed or aided another person to commit, or abetted the commission of, an offence under the new section 14S(3).

The officer of customs may search any person so arrested. However, the arrested person must not be detained without a warrant for a longer period than under the circumstances of the case is reasonable, and in any event not longer than 48 hours (exclusive of the time necessary to travel from the place of arrest to the Magistrate's Court).

The new section 14Y penalises any person that provides any information, document or statement that is false or misleading in any material particular, that counterfeits or falsifies any document (or uses any counterfeited or falsified document) or that fraudulently alters any document or counterfeits a mark of an officer of customs used for verifying a document or to secure goods.

The new section 14Z penalises any person who, among other things, obstructs officers of customs and other persons authorised to carry out certain powers of investigation and enforcement under the Act.

Clause 11 deletes section 15, as the requirements under the existing section 15 are imposed under the new section 10.

Clause 12 inserts a new section 16A, which is a confidentiality provision for authorities, licensed FTZ operators, FTZ cargo handlers, shipping agents and air cargo agents (including their officers or employees), for officers of customs and for persons employed or engaged in the administration of the Act. The new section 16A provides that these persons must not disclose any information submitted or given for the purposes of the Act, unless there is prior written consent of the person to whom the information relates. However, there are certain specified circumstances in which the information may be disclosed.

Clause 13 inserts a new section 17A, which protects from personal liability any officer of customs or other person acting under the direction of the Director-General for anything done or intended to be done in the exercise or purported exercise of power or the performance or purported performance of a function under the Act, provided that it is done or intended to be done in good faith and with reasonable care.

Clause 14 amends section 18 to make consequential amendments in light of the administration, maintenance and operation of free trade zones being undertaken by licensed FTZ operators. The section is further renumbered as subsection (1) and a new subsection (2) inserted to provide that, unless otherwise expressly provided in the Act, an appeal does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision. An amendment is also made to delete the reference to regulations made under the Act, as section 26A of the Interpretation Act 1965 applies to the reference to the Act.

Clause 15 inserts a new section 18A, which provides for the modes of service of documents and determines the time when service is effected. The new section 18A does not apply to documents to be served in court proceedings.

Clause 16 deletes section 19 as it is no longer necessary, because Part 3 of the Criminal Procedure Code 2010 applies instead.

Clause 17 amends section 20 to delete the reference to regulations made under the Act, as section 26A of the Interpretation Act 1965 applies to the reference to the Act.

Clause 18 deletes section 21 as it is no longer necessary, and the penalties for offences are provided for in the relevant provisions of the Act.

Clauses 19 and 20 amend sections 22 and 23, respectively, to delete the references to regulations made under the Act, as section 26A of the Interpretation Act 1965 applies to the references to the Act.

Clause 21 inserts a new section 23A.

The new section 23A provides for the composition of offences (which are prescribed as compoundable offences) under the Act by the Director-General.

Clause 22 makes a technical amendment to the Part 7 heading.

Clause 23 inserts a new section 23B.

The new section 23B confers on the Minister the power to disapply all or any provision in the Act to any person or class of persons. The Minister can do this by an exemption order published in the *Gazette*.

Clause 24 amends section 24 to specify a non-exhaustive list of matters for which regulations may be made to give effect to the Act, and to allow the Minister to provide penalties for the contravention of any provision of the regulations.

Clauses 25 and 27 contain miscellaneous and transitional provisions.

With regard to authorities, the general principle is that the amendments in the Bill (other than the new sections 10 and 16A) will not apply during the transition period, but the existing provisions in the Act continue to apply during the transition period. Provisions in the Act relating to authorities will be deleted or

amended to remove references to authorities once there are licensed FTZ operators for each free trade zone.

Clause 26 makes consequential amendments to the Customs Act 1960 due to the amendments providing that free trade zones are to be administered, maintained and operated by licensed FTZ operators, instead of authorities.

EXPENDITURE OF PUBLIC MONEY

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