

# **Building and Construction Authority (Amendment) Bill**

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**Bill No. 2/2009.**

*Read the first time on 19th January 2009.*

## **A BILL**

*i n t i t u l e d*

An Act to amend the Building and Construction Authority Act (Chapter 30A of the 2000 Revised Edition).

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

## **Short title and commencement**

**1.** This Act may be cited as the Building and Construction Authority (Amendment) Act 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

**5      Amendment of section 9**

**2.** Section 9 of the Building and Construction Authority Act (referred to in this Act as the principal Act) is amended by inserting, immediately after subsection (1), the following subsection:

**10**     “(1A) In addition to the functions and duties imposed by subsection (1), the Authority may undertake such other functions and duties as the Minister may in writing assign to the Authority and, in so doing, the Authority shall be deemed to be fulfilling the purposes of this Act and the provisions of this Act shall apply to the Authority in respect of such functions and duties.”.

**15      Amendment of section 12**

**3.** Section 12(1) of the principal Act is amended by inserting, immediately after the words “the Authority” in the last line, the words “except the power of delegation conferred by this subsection and the power to make subsidiary legislation conferred by this Act or any other written law”.

## **New Part VIA**

**4.** The principal Act is amended by inserting, immediately after section 31, the following Part:

### **“PART VIA**

**25      SUPPLY OF ESSENTIAL CONSTRUCTION MATERIALS**

#### *Division 1 — General*

### **Interpretation of this Part**

**31A.** In this Part, unless the context otherwise requires —

**30**     “assisting officer” means a public officer or an employee of a public authority who is neither a police officer, an officer of

customs nor an immigration officer, but who has been authorised by the Authority by name to assist an enforcement officer;

5       “authorised analyst” means any person (who is not an employee of the Authority) or body of persons designated by the Authority under section 31M as authorised to carry out any inspection, examination and certification of any essential construction material under this Part and includes any enforcement officer;

10      “building works” has the same meaning as in the Building Control Act (Cap. 29);

15      “consignment”, in relation to any essential construction material, means essential construction material of a particular kind that comprises a single lot imported by the same owner at the same time;

“container” includes —

(a) a case, box, bag, wrapper or material of any kind used or intended to be used to cover, contain or package something (whether or not designed for that purpose); or

20      (b) a bulk container, or any means of bulk transport, used or intended to be used to cover, contain or package something;

“conveyance” means any vessel, vehicle or aircraft;

“enforcement officer” means —

25      (a) the Chief Executive of the Authority appointed under section 13(1); or

          (b) an employee of the Authority appointed by the Chief Executive to be an enforcement officer for the purposes of this Part;

30      “essential construction material” means any of the following materials which are suitable for use in any building works, street works or railway works in Singapore and the domestic supply thereof is short:

          (a) granite;

- (b) sand;
  - (c) such rocks, minerals or other construction materials (whether manufactured or otherwise) as the Minister may, by notification in the *Gazette*, declare to be essential construction material;

“granite” means —

- (a) granite slabs or blocks extracted or won from naturally occurring mineral deposits and suitable (if crushed) for use as primary aggregate in any building works, street works or railway works in Singapore; or

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- (b) granite aggregate, gravel, stones or overburden of such prescribed dimensions that are extracted or won from mineral sources, which have been subject to nothing more than crushing and sizing or other physical processing, and suitable for use, either on their own or with the addition of cement or other binder, in any building works, street works or railway works in Singapore;

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“immigration officer” means any person appointed under section 3 of the Immigration Act (Cap. 133);

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“import”, with its grammatical variations and cognate expressions, means to bring or cause to be brought into Singapore by land, water or air from any place which is outside Singapore but does not include the bringing into Singapore of essential construction material which are to be taken out of Singapore on the same conveyance on which they were brought into Singapore without any landing or transhipment within Singapore;

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“import permit” means an import permit granted under section 31H to import a particular consignment of essential construction material;

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“isolation order” means an order issued or deemed to be issued under section 31J in respect of a consignment of essential construction material;

“licence” means a licence granted under section 31E to carry on the business of importing essential construction material specified therein;

“licensee” means a person who holds a valid licence;

“occupier” —

(a) in relation to any premises or conveyance, means the person in occupation of the premises or conveyance or having the charge, management or control thereof; and

(b) in relation to any part of any premises different parts of which are occupied by different persons, means the person in occupation or having the charge, management or control of that part;

“officer of customs” has the same meaning as in the Customs Act (Cap. 70);

“procure”, with its grammatical variations and cognate expressions, means the process of acquiring essential construction materials (by purchase or exchange) and importing those materials;

“railway works” means any works for the construction, reconstruction or realignment, or the permanent improvement of a railway;

“sand” means any sand or gravel that is suitable for use as fine aggregate in any building works, street works or railway works in Singapore, but excludes any unwashed or unprocessed marine-dredged sand or gravel;

“site”, in relation to any essential construction material, means any land or land underwater outside Singapore —

(a) from which granite is extracted or won by blasting, sorting, breaking, loading and transporting, whether the processes are executed by manual labour or mechanical means;

(b) on which persons are employed in any process for or incidental to the getting, dressing or preparation for the sale or otherwise of sand; or

- (c) from which any other essential construction material is extracted or won;

<sup>5</sup>“storage permit” means any storage permit granted under section 31I in respect of such premises as may be specified therein;

“street works” has the same meaning as in the Street Works Act (Cap. 320A);

“supply”, in relation to any essential construction material, means to transfer possession of the essential construction material by any means whether or not for reward, and includes —

- <sup>10</sup>(a) to sell the essential construction material, whether by retail, wholesale or auction;
- (b) to transfer possession of the essential construction material by exchange, gift, lease or loan;
- <sup>15</sup>(c) to supply the essential construction material in connection with a contract for the provision of any goods or the performance of any service; and
- (d) to offer, agree or attempt to supply the essential construction material in any of the ways described in paragraph (a), (b) or (c) or to cause or permit the essential construction material to be so supplied;

“vehicle” means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes —

- <sup>25</sup>(a) any aircraft, trailer, bicycle or other pedal-powered vehicle; and
- (b) any train, railway locomotive, wagon or carriage, and includes a part of any of the above;

“vessel” means any kind of craft used in navigation by sea or water, however propelled or moved, and includes —

- (a) a barge, lighter or other floating vessel; or
  - (b) a vessel engaged in a towing operation or in any dredging, surveying or underwater operations,
- and includes a part of any of the above.

## **Licence required for importing essential construction materials**

**31B.—(1)** Subject to the provisions of this Part, no person shall carry on any business of importing any essential construction material unless the person is authorised to do so under a valid licence.

**(2)** Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

**(3)** Nothing in this section shall apply to prevent a corporation or limited liability partnership that ceases to have in force a licence from carrying on any activity necessary to the winding up of the corporation or limited liability partnership.

## **Import permit required for every consignment**

**31C.—(1)** Subject to the provisions of this Part, no licensee shall import any essential construction material unless —

**(a)** the import of each consignment of essential construction material by the licensee is authorised by an import permit and is carried out in accordance with the conditions of the import permit; and

**(b)** the whole consignment conforms to the description as contained in the import permit.

**(2)** Any licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 2 years or to both.

**(3)** In any proceedings for an offence under subsection (2), it shall be a defence for the accused to prove —

**(a)** that the commission of the offence was due to the act or default of another person or to some other cause beyond his control; and

**(b)** that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or by any person under his control.

(4) If in any case the defence provided by subsection (3) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person.

## **Isolation and storage of imported essential construction material**

**31D.**—(1) Any licensee who imports any consignment of essential construction material (whether or not under an import permit) shall not —

- (a) use or permit to be used the essential construction material or any part thereof in any building works, street works or railway works in Singapore; or
  - (b) supply or permit to be supplied to another person the essential construction material, knowing or having reasonable cause to believe that the essential construction material is to be used in any building works, street works or railway works in Singapore,

for so long as the consignment is subject to an isolation order.

(2) Any licensee shall not use any premises for storing any consignment of essential construction material that he imports and is subject to an isolation order except —

- (a) in or on premises that are authorised for such use under a storage permit granted by the Authority;
  - (b) in such quantities (if any) and in such manner and subject to such conditions as may be prescribed in relation to such essential construction material; and
  - (c) in accordance with every condition of that storage permit granted.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a

fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

*Division 2 —Applications for licences, import permits  
and storage permits*

5       **Application for licence**

**31E.—(1)** Every application for a licence or a renewal thereof shall be made to the Authority in the prescribed manner and shall be accompanied by the appropriate application fee prescribed.

10      (2) An applicant for a licence or a renewal thereof shall, at the request of the Authority, provide any further information or evidence that the Authority may require to decide the application.

(3) Upon receiving an application for a licence or a renewal thereof under subsection (1), the Authority shall consider the application and, subject to section 31N(7)(c), may —

15      (a) grant a licence or a renewal thereof, with or without conditions; or

          (b) refuse to grant any such licence or renewal thereof.

(4) For the avoidance of doubt, a licence does not authorise the holder thereof —

20      (a) to use in any building works, street works or railway works in Singapore; or

          (b) to supply to any other person,

any essential construction material imported by him.

25      (5) Every licence shall, unless earlier revoked, be valid for such period as may be specified therein (being not longer than 24 months) and, upon its expiry, the licence may be renewed.

(6) Any person who, in making an application for a licence —

          (a) makes any statement or furnishes any document which he knows to be false or does not believe to be true; or

- (b) by the intentional suppression of any material fact, furnishes information which is misleading,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

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### **Who may be licensed**

**31F.—(1)** A person who applies for a licence shall be eligible to be granted a licence if, and only if —

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- (a) the person is neither a company limited by guarantee nor a corporation sole;
- (b) the Authority is satisfied that the person is duly authorised to carry on the business of an importer of essential construction materials; and
- (c) the person furnishes a procurement plan regarding the import of essential construction materials, stating —
  - (i) the types of essential construction materials proposed to be procured by that person;
  - (ii) the respective sites from which the essential construction materials are to be extracted or won;
  - (iii) the methods or practices to be applied by that person in procurement;
  - (iv) the risks (including assessments thereof) of any disruption occurring to the import of the relevant essential construction materials from the markets from which the relevant essential construction materials are to be procured; and
  - (v) any plan of action (including preventive strategies) for the purpose of ensuring, so far as is reasonably practicable, that the person can still provide a secure and reliable supply in Singapore of the relevant essential construction materials of acceptable quality or of otherwise reducing or mitigating the effect of any disruption to the supply of the relevant essential construction materials from any such market from

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which the relevant essential construction materials are to be procured.

(2) In deciding whether to grant a licence, the Authority may make inquiries and investigations that are reasonable and appropriate in the circumstances so as to be satisfied as to —

- (a) the general character of the management of the applicant;
- (b) the financial condition of the applicant;
- (c) the experience and resources of the applicant in providing a secure and reliable supply in Singapore of essential construction materials of acceptable quality; and
- (d) whether the public interest will be served by the granting of the licence.

(3) The Authority may require an applicant for a licence to satisfy the Authority that the applicant has sufficient material and financial resources available to enable the applicant to meet his or its financial obligations as and when they become due, and may refuse to grant a licence to an applicant who fails to so satisfy it.

### **Conditions of licence**

**31G.—(1)** The Authority may grant a licence subject to such conditions as the Authority thinks fit, including but not limited to the conditions necessary or related to ensuring a secure and reliable supply in Singapore of essential construction materials of acceptable quality, and may at any time vary any existing conditions of such a licence or impose additional conditions thereto.

(2) Before making any modification to the conditions of a licence under this section, the Authority shall give notice to the licensee concerned —

- (a) stating that the Authority proposes to make the modification in the manner specified in the notice; and
- (b) specifying the time (being not less than 14 days from the date of service of notice on the licensee concerned) within which written representations with respect to the proposed modification may be made.

(3) Upon receipt of any written representation referred to in subsection (2)(b), the Authority shall —

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- (a) consider the representation and may reject the representation or amend the proposed modification in accordance with the representation, or otherwise; and
- (b) in either event referred to in paragraph (a), thereupon issue a direction in writing to the licensee concerned requiring that effect be given to the proposed modification specified in the notice or to such modification as subsequently amended by the Authority within a reasonable time.

### **Application for import permit**

**31H.**—(1) Every application for an import permit to import any consignment of essential construction material shall —

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- (a) be made to the Authority in the prescribed manner;
- (b) be accompanied by the appropriate application fee prescribed; and
- (c) be accompanied by the following unless the Authority waives the requirement:
  - (i) such maps, particulars and other information as to the site from which the essential construction material is or is to be extracted or won;
  - (ii) a statutory declaration by or on behalf of the licensee verifying any information contained in or relating to the application;
  - (iii) such samples of the essential construction material to be imported and such other documents relating thereto as may be prescribed.

(2) The licensee applying for an import permit to import a consignment of essential construction material shall, at the request of the Authority —

- (a) arrange, at the licensee's own cost, for samples of the essential construction material to be evaluated for the purposes of this Part; and

(b) provide any further information or evidence that the Authority may require to decide the application.

(3) The evaluation referred to in subsection (2)(a) may be carried out by —

5 (a) an authorised analyst in Singapore; or

(b) a body or an organisation outside Singapore that is recognised by the Authority.

10 (4) Upon receiving an application for an import permit under subsection (1), the Authority shall consider the application and such report of the evaluation referred to in subsection (2)(a) relating to the essential construction material to be imported, and may —

(a) grant an import permit, with or without conditions, in respect of that consignment; or

(b) refuse to grant any such import permit.

15 (5) Notwithstanding subsection (4), the Authority shall refuse to grant an import permit to any licensee whose licence is suspended or who is the subject of any proceedings under section 31N.

20 (6) Every import permit shall, unless earlier cancelled, be valid for such period as may be specified therein (being not longer than 14 days) and may be extended.

(7) For the avoidance of doubt, an import permit to import any consignment of essential construction material does not authorise the holder thereof —

25 (a) to use in any building works, street works or railway works in Singapore; or

(b) to supply to another person,

the essential construction material imported under that import permit, except in accordance with this Part.

30 (8) Any person who, in making an application for an import permit —

(a) makes any statement or furnishes any document which he knows to be false or does not believe to be true; or

- (b) by the intentional suppression of any material fact, furnishes information which is misleading,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

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### **Application for storage permit**

**31I.**—(1) Every application by a licensee for a storage permit in respect of any premises for storing essential construction material that is subject to an isolation order shall be made to the Authority in the prescribed manner.

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(2) An applicant for a storage permit shall, at the request of the Authority, provide any further information or evidence that the Authority may require to decide the application.

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(3) Upon receiving an application for a storage permit in respect of any premises under subsection (1), the Authority shall consider the application and may —

- (a) grant a storage permit, with or without conditions; or
- (b) refuse to grant any such storage permit.

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(4) Before granting to a licensee any storage permit in respect of any premises, the Authority may —

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- (a) inspect the premises, or cause such premises to be inspected by an enforcement officer with a view to its suitability to be authorised for use to store essential construction material that is subject to an isolation order;

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- (b) require the licensee to make, at his own expense, such alterations or improvements to the premises, or to provide, fix or install such facilities therein, as the Authority may specify; and

- (c) require the licensee to furnish a cash security deposit or a bank guarantee not exceeding the prescribed amount to secure the performance or due observance by the licensee of any condition of the storage permit.

(5) Every storage permit shall, unless earlier cancelled, be valid for such period as may be specified therein (being not longer than

3 months) except that such period may be extended by the Authority before the expiry of the storage permit in any particular case.

(6) Any person who, in making an application for any storage permit —

- 5 (a) makes any statement or furnishes any document which he knows to be false or does not believe to be true; or
- (b) by the intentional suppression of any material fact, furnishes information which is misleading,

10 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

*Division 3 —Isolation and evaluation of imported essential construction materials*

**Isolation of imported essential construction material upon entry**

15 **31J.**—(1) The Authority may issue an isolation order in respect of any imported consignment of essential construction material upon its entry into Singapore.

20 (2) Subject to subsection (3), every consignment of essential construction material imported (whether or not under an import permit) shall, upon its entry into Singapore, be deemed subject to an isolation order until the Authority lifts the isolation order in accordance with section 31L.

25 (3) Notwithstanding subsection (2), the Authority or an enforcement officer may, before the entry into Singapore of a consignment of essential construction material, by notice in writing to the licensee importing the consignment waive the application of subsection (2) in respect of that consignment.

30 (4) Upon the entry into Singapore of the consignment of essential construction material that is subject to an isolation order, the licensee importing that consignment shall, before doing any of the following:

- (a) use or permit to be used the essential construction material or any part thereof in any building works, street works or railway works in Singapore;

- (b) supply or permit to be supplied to another person the essential construction material, knowing or having reasonable cause to believe that the essential construction material is to be used in any building works, street works or railway works in Singapore,

isolate the consignment of the essential construction material at premises in respect of which a storage permit is granted, and arrange for a sample to be taken as soon as practicable from that consignment by any person acting by or under the authority of the Authority and for the sample to be evaluated by an authorised analyst for the purposes of this Part.

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(5) Where a licensee who has imported any essential construction material fails to comply with subsection (4), the licensee 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.

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(6) An enforcement officer or assisting officer or any other person acting by or under the authority of the Authority may at any time take, without payment, sufficient samples of any essential construction material from a consignment thereof imported by a licensee (whether in any premises or in any conveyance that is being used to transport the consignment) for the purpose of evaluation by an authorised analyst for the purposes of this Part, regardless of whether that consignment is subject to an isolation order.

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(7) All samples of any material taken in accordance with subsection (4) or (6) shall be taken and dealt with as prescribed.

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(8) The costs of and incidental to the evaluation of any essential construction material required by this section shall be borne by the Authority.

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## Evaluation of essential construction material

**31K.**—(1) The evaluation of any essential construction material for the purposes of this Part shall include such analysis, test or examination of the essential construction material as may be prescribed to determine the following matters:

- (a) the acid soluble sulphate content, the chloride content and the alkali-silica reactivity of the essential construction material;
- (b) whether the essential construction material is otherwise unsuitable, given its composition, for producing concrete for use in building works, street works or railway works in Singapore; and
- (c) whether the essential construction material complies with such other requirements as may have been prescribed in relation thereto.

(2) An evaluation of any essential construction material for the purposes of this Part may be carried out by any authorised analyst but not any other.

(3) An authorised analyst shall, on completing his evaluation of any essential construction material for the purposes of this Part, issue to the Authority a certificate stating the authorised analyst's findings, and shall submit a copy of that certificate to the Authority within the prescribed time.

(4) Upon receiving any certificate of an authorised analyst under subsection (3) relating to any consignment of essential construction material imported by a licensee, the Authority shall without delay consider the findings of the authorised analyst to determine whether the quality of the essential construction material is of acceptable quality for use in any building works, street works or railway works in Singapore.

(5) Any quantity of any essential construction material found in any premises or in or on any conveyance at the time when a sample thereof is taken pursuant to the provisions of this Part shall, until the contrary is proved, be presumed to possess the same properties as such sample.

### **Failed construction materials**

**31L.—(1)** This section shall apply to any essential construction material the quality of which the Authority determines is not acceptable for use in any building works, street works or railway works in Singapore (referred to hereafter as failed construction material).

5 (2) Where the Authority, after considering the findings of an authorised analyst in relation to any consignment of essential construction material imported by a licensee, is satisfied that the essential construction material is of acceptable quality for use in any building works, street works or railway works in Singapore, the Authority shall by notice in writing to the licensee concerned immediately lift the isolation order (if any) to which the consignment of essential construction material is subject.

10 (3) Where the Authority, after considering the findings of an authorised analyst, is of the view that a consignment of essential construction material imported by a licensee is failed construction material, the Authority may by notice in writing —



(4) Where the failed construction material is a sample taken for evaluation under section 31J(4), the licensee to whom a notice in subsection (3)(b) is given shall—

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(a) at his own expense and within the prescribed time, remove from Singapore any remaining failed construction material in his possession, and any other essential construction material (whether or not from the same consignment) extracted or won from the same site as that from which the failed construction material was extracted or won, or destroy or otherwise dispose of it in the prescribed manner; and

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(b) immediately cease to further import, supply or use in any building works, street works or railway works in Singapore the essential construction material extracted or won from the same site as that from which the failed construction material was extracted or won, except under such circumstances, in such manner and within such time as may be approved by the Authority.

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35 (5) Where the failed construction material is a sample taken for evaluation under section 31J(6), the licensee to whom a notice in subsection (3)(b) is given shall, in addition to complying with the

requirements of subsection (4)(a) and (b), at his own expense and within the prescribed time, notify in the prescribed manner —

- (a) every person to whom the licensee has supplied essential construction material between the date of entry into Singapore of the consignment of failed construction material and the 7th day after the authorised analyst's certificate relating to that consignment is received by the Authority (both days inclusive); and
- (b) the Authority of the identity and business address of every such person in paragraph (a) so notified.

(6) Where a licensee to whom subsection (4) or (5) applies fails to remove the failed construction material and other essential construction material from Singapore or destroy or otherwise dispose of it in accordance with the manner prescribed —

- (a) an enforcement officer or assisting officer may take such steps as he thinks fit to secure the removal, destruction or disposal of the failed construction material and other essential construction material; and
- (b) the Authority may recover from that licensee (as a debt due to the Authority) any costs and expenses reasonably incurred by the enforcement officer or assisting officer in doing so.

(7) Subsection (4)(b) shall not prejudice the enforcement by any person of any right or claim against a licensee on whom a direction under that subsection is served or by such a licensee of any right or claim against any person.

(8) The licensee concerned shall bear the costs of and incidental to any evaluation of any essential construction material required in connection with the licensee seeking the approval of the Authority under subsection (4)(b).

#### **Authorised analysts and evidence**

**31M.—(1)** The Authority shall, by regulations, establish a scheme under which persons (who are not employees of the Authority) or bodies of persons may be designated as authorised analysts to carry out any evaluation of any essential construction material for the purposes of this Part, making provision for or with respect to the following:

- (a) the qualifications, skills, knowledge and experience required for such designation under this Part;
- (b) a code of conduct for authorised analysts; and
- (c) the grounds and circumstances for and under which such designation may be refused, suspended or revoked.
- 5 (2) The Authority may, in accordance with the scheme established under subsection (1), designate any person (who is not an employee of the Authority) or body of persons in Singapore as authorised to carry out any evaluation of any essential construction material for the purposes of this Part.
- 10 (3) No person shall exercise the functions of an authorised analyst under this Part or hold himself out as one unless he is designated by the Authority in accordance with the scheme established under subsection (1).
- 15 (4) Any person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.
- 20 (5) Subject to subsection (6), in any proceedings for an offence under this Part, a certificate of an authorised analyst stating, in respect of any sample from a consignment of essential construction material, all or any of the following matters:
- 25 (a) that the authorised analyst signing the certificate is designated by the Authority in accordance with the scheme established under subsection (1);
- (b) when and from whom the sample was received;
- (c) when the sample was analysed, tested or examined;
- (d) a description of the method of analysis, test or examination;
- (e) the results of his analysis, test or examination,
- 30 shall be admissible as prima facie evidence of the matters stated in the certificate and of the correctness of the result of the analysis, test or examination.

(6) A certificate referred to in subsection (5) shall not be received in evidence under that subsection unless the person charged has been given —

- 5 (a) a copy of the certificate; and
- (b) notice of the intention of the prosecution to produce the certificate as evidence in the proceedings,

not less than 10 clear days before the commencement of the proceedings.

10 (7) Where an authorised analyst's certificate is admitted in evidence under subsection (5), the person charged may require the authorised analyst to be called as a witness for the prosecution and the authorised analyst may be cross-examined as if he had given evidence of the matters stated in the certificate.

*Division 4 — Enforcement and monitoring powers*

15 **Revocation of licences, etc.**

**31N.**—(1) Subject to subsection (3), the Authority may, by order, revoke any licence if it is satisfied that —

- 20 (a) the licensee has failed to comply with any condition imposed by the Authority under section 31G;
- (b) the licence had been obtained by fraud or misrepresentation;
- (c) the licensee has been declared bankrupt or has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
- (d) the licensee has been convicted of an offence under this Part;
- 25 (e) the licensee has, without reasonable excuse, failed to comply with section 31L(4) or (5), as the case may be;
- (f) the public interest or national security of Singapore so requires; or
- (g) the licensee has refused or failed to comply with an order of the Authority made under subsection (2)(b) or (d).

(2) The Authority may, in any case in which it considers that no cause of sufficient gravity for revoking any licence exists, by order do all or any of the following:

- 5 (a) suspend the licence for a period not exceeding 6 months;
- (b) impose on the licensee concerned a financial penalty not exceeding \$500,000;
- (c) censure the licensee concerned;
- 10 (d) impose such other direction or restriction as the Authority considers appropriate on the licensee's business as an importer of essential construction materials.

15 (3) The Authority shall not exercise its powers under subsection (1) or (2) unless an opportunity of being heard by a representative in writing or by counsel had been given to the licensee against which the Authority intends to exercise its powers, being a period of not less than 7 and not more than 14 days.

(4) Where the Authority has made an order under subsection (1) or (2) in respect of any licensee, the Authority shall serve on the licensee concerned a notice of its order made under this section.

20 (5) Subject to subsection (6), any order made by the Authority under subsection (1) or (2) shall take effect on the expiration of 7 days after the Authority has served the order on the licensee concerned.

25 (6) Where the licensee concerned has appealed under section 31P to the Minister against an order made by the Authority under subsection (2)(b), the order shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister or withdrawn.

(7) Where an order of revocation becomes effective —

- 30 (a) the Authority shall cause notice of the revocation to be published in the *Gazette*;
- (b) the importer concerned shall, as from the date of the notice, cease to import any essential construction material except as may be approved by the Authority; and

(c) the importer concerned shall be debarred from applying for or holding a licence for a period of 12 months after that revocation.

5 (8) Subsection (7)(b) shall not prejudice the enforcement by any person of any right or claim against the corporation or limited liability partnership formerly licensed, or by the corporation or limited liability partnership formerly licensed, of any right or claim against any person.

10 (9) In any proceedings under this section in relation to the conviction of a licensee for a criminal offence, the Authority shall accept the licensee's conviction as final and conclusive.

### **Cancellation of import permits and storage permits**

15 **31O.—(1)** The Authority may, after calling upon the licensee concerned to show cause within such reasonable time as the Authority may allow as to why the import permit granted in respect of any consignment of essential construction material to be imported should not be cancelled, by order cancel the import permit if the Authority has reasonable grounds to believe that —

- 20 (a) the import permit had been obtained by fraud or misrepresentation;
- (b) the essential construction material is extracted or won from the same site from which any failed construction material is extracted or won;
- (c) the licensee's licence is suspended or the licensee is the subject of any proceedings under section 31N;
- 25 (d) the essential construction material no longer complies with a prescribed requirement referred to in section 31K(1)(c); or
- (e) it is in the public interest to do so.

30 (2) Without prejudice to subsection (1), every import permit granted to any person shall be deemed cancelled upon the revocation of any licence granted to the same person.

(3) The Authority may, after calling upon the licensee concerned to show cause within such reasonable time as the Authority may allow as to why the storage permit granted in respect of any premises

should not be cancelled, by order cancel the storage permit if the Authority has reasonable grounds to believe that —

- (a) the storage permit had been obtained by fraud or misrepresentation;
- (b) any condition of the storage permit has been breached; or
- (c) any essential construction material subject to an isolation order is not stored at those premises in accordance with this Part or any regulations made thereunder.

### **Appeal to Minister**

**31P.**—(1) Any person whose application for a licence, an import permit or a storage permit, or for the renewal of a licence, has been refused by the Authority may, within 14 days after being notified of such refusal, appeal in the prescribed manner to the Minister whose decision shall be final.

(2) Where a licence, an import permit or a storage permit granted by the Authority is subject to conditions, the licensee or holder of the permit concerned may, within 14 days after being notified of such conditions, appeal in the prescribed manner to the Minister whose decision shall be final.

(3) If the Authority has made any order —

- (a) under section 31N in respect of a licence or licensee; or
- (b) cancelling any import permit or storage permit under section 31O(1) or (3),

the person against whom such an order is made may, within 14 days after being served with the notice of the order, appeal to the Minister against the order, and the decision of the Minister shall be final.

(4) In any appeal under this section in relation to the conviction of a licensee for a criminal offence, the Minister on appeal from any order of the Authority shall accept the licensee's conviction as final and conclusive.

### **Monitoring and enforcement powers**

**31Q.**—(1) For the purpose of the administration and enforcement of this Part, any enforcement officer, officer of customs or

immigration officer or, subject to subsection (12), any assisting officer may —

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- (a) at any time and without warrant enter, inspect and search any premises that are being used, or that the officer concerned has reason to suspect are being used, for or in connection with any purpose that is in contravention of this Part;
- (b) at any time and without warrant stop, board, inspect and search any conveyance that is being used, or that the officer concerned has reason to suspect is being used, for or in connection with any purpose that is in contravention of this Part;
- (c) in accordance with such procedure as may be prescribed and without payment, take for evaluation a sample of any essential construction material that is found pursuant to an inspection or a search under paragraph (a) or (b);
- (d) seize any other substance or article which the officer concerned has reasonable cause to believe to be a substance or an article in relation to which, or by means of which, an offence under this Part is being or has been committed;
- (e) require any person —
  - (i) to furnish any information within his knowledge; and
  - (ii) to produce for inspection any shipping bill, bill of lading or other document or record within his possession,
- (f) retain the original copy of any shipping bill, bill of lading or other document or record that the officer concerned believes on reasonable grounds to be connected with any suspected contravention of this Part or to be otherwise relevant to the administration or enforcement of this Part;

that the officer concerned believes on reasonable grounds to be connected with any suspected contravention of this Part or to be otherwise relevant to the administration or enforcement of this Part;

- (g) make or cause to be made, without payment, copies of or extracts from such document or record; and

- (g) by notice in writing require any person having in his possession any essential construction material that is imported or intended for use or supply to submit, at the Authority's own expense, a sample of such essential construction material to an authorised analyst for evaluation for the purposes of this Part.

(2) In exercising his power under subsection (1)(a) or (b), an enforcement officer, officer of customs, immigration officer or any assisting officer may —

- (a) require the owner or occupier of any premises or conveyance being inspected to provide all reasonable assistance to the officer concerned for the purpose of the inspection; and
  - (b) if the circumstances so warrant, with such assistance as he thinks necessary, break open any door, window, lock, fastener, hold, compartment, box, container or any other thing,

and any person who fails to comply with any requirement of an enforcement officer, officer of customs, immigration officer or assisting officer under paragraph (a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) The Authority may, by notice in writing, require any licensee who imports or supplies any essential construction material to cease (whether immediately or within such time as the Authority may specify) the import or supply of such material if —

- (a) a sample of the essential construction material has been taken or obtained under subsection (1)(c) for evaluation or has been required to be submitted under subsection (1)(g) for evaluation; and
  - (b) pending the result of that evaluation, the Authority is of the opinion that it is necessary to prevent any more of such essential construction material from further being imported or supplied.

(4) Where any item has been seized under subsection (1)(d) —

- (a) the enforcement officer, officer of customs, immigration officer or assisting officer who seized the item shall immediately give notice in writing of the seizure to the person from whom the item was seized, if the name and address of that person are known;
- (b) any person claiming the item seized may within 48 hours after the seizure complain thereof to a Magistrate, and the complaint may be heard and determined by the Magistrate who may —
  - (i) confirm the seizure wholly or in part;
  - (ii) disallow the seizure wholly or in part;
  - (iii) order that the item seized be restored to its owner, subject to such condition which the Magistrate may think fit to impose to ensure that the item is preserved for any purpose for which it may subsequently be required; or
  - (iv) order payment to be made to the owner of the item seized of such amount as the Magistrate considers will compensate him for any loss or depreciation resulting from the seizure;
- (c) in the absence of any claim under paragraph (b) or pending the determination of any such claim, the item may be kept or stored in the premises or conveyance where it was seized or may, at the direction of the enforcement officer, officer of customs, immigration officer or assisting officer, be removed to any other place to be kept or stored thereat; and
- (d) the enforcement officer, officer of customs, immigration officer or assisting officer, as the case may be, may mark, seal or label the item in such manner as he thinks fit for the purpose of indicating that the item is under detention, and lock or seal the premises or conveyance in which the item is being detained.

(5) Any person who, without the authority of an enforcement officer, officer of customs, immigration officer or assisting officer —

- (a) interferes, tampers with, removes, distributes, sells or otherwise disposes of any item seized under subsection (1)(d);
- (b) alters, counterfeits, defaces, destroys, erases or removes any mark, seal or label placed by the enforcement officer, officer of customs, immigration officer or assisting officer on the item under subsection (4)(d); or
- (c) opens, breaks or otherwise tampers with the lock or seal placed by the enforcement officer, officer of customs, immigration officer or assisting officer on any premises or conveyance or part thereof under subsection (4)(d),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

(6) For the purposes of subsection (1)(e), where any document or record required by an enforcement officer, officer of customs, immigration officer or assisting officer is kept in electronic form, then —

- (a) the power of the officer concerned to require such document or record to be produced for inspection includes the power to require a copy of the document or record to be made available for inspection in legible form (and subsection (1)(f) shall accordingly apply in relation to any copy so made available); and
- (b) the power of the officer concerned to inspect such document or record includes the power to require any person on the premises in question to give the officer concerned such assistance as the officer may reasonably require to enable him to inspect and make copies of the document or record in legible form or to make records of the information contained therein.

(7) Any copy of or extract from any document or record made under subsection (1)(f) and certified as such by the enforcement officer, officer of customs, immigration officer or assisting officer shall be admissible as evidence in any proceedings under this Part.

5               (8) Any person who, when required by an enforcement officer, officer of customs, immigration officer or assisting officer under subsection (1)(e) to furnish any information or produce for inspection any document or record, refuses or fails, without reasonable excuse, to furnish the information or to produce the document or record within the time allowed by the officer concerned shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both.

10              (9) Any person who, when required by an enforcement officer, officer of customs, immigration officer or assisting officer under subsection (1)(e) to furnish any information or produce any document or record, in compliance or purported compliance with such requirement, furnishes the officer concerned with any information, document or record which he knows is false or misleading shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

15              (10) Any person who fails, without reasonable excuse, to comply with any notice in writing given to him —

20               (a) by an enforcement officer, officer of customs, immigration officer or assisting officer under subsection (1)(g); or

25               (b) by the Authority under 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 6 months or to both.

30              (11) All samples of any material taken in accordance with subsection (1)(c) or (g) shall be dealt with as prescribed.

(12) Notwithstanding anything in this section, an assisting officer who is neither a police officer, an officer of customs nor an immigration officer is not authorised by this section to assist in searching or arresting any person.

### **Forfeiture**

35              **31R.—(1)** The court before which any person is tried for an offence under this Part may make an order for the forfeiture of any item

which has been seized under the provisions of this Part if the court is satisfied that —

- (a) an offence under this Part has been committed; and
- (b) the item seized was the subject-matter, or was used in the commission, of the offence.

(2) Where no party raises the question of forfeiture under subsection (1), the court may consider the question on its own motion.

(3) The court may make an order under subsection (1) for the forfeiture of any item which has been seized under the provisions of this Part notwithstanding that no person has been convicted of an offence.

(4) If the court, having regard to the circumstances of the case, does not think it fit to order the forfeiture of any item which has been seized under the provisions of this Part, the court shall order that the item be released to the owner thereof or the person entitled thereto.

(5) If no prosecution is instituted with regard to any item which has been seized under the provisions of this Part, and no claim is made for the item under section 31Q(4)(b), the item to which the notice relates shall be deemed to be forfeited.

(6) Where the owner of any item seized under the provisions of this Part consents to its disposal, the item shall thereupon be deemed to be forfeited.

(7) Any item forfeited or deemed to be forfeited under this section shall be delivered to the Authority or an officer thereof and shall be disposed of in such manner as the Authority thinks fit.

(8) The costs of the disposal of any item under subsection (7) shall be borne by the owner of that item.

#### *Division 5 —Miscellaneous*

#### **Register of licensees**

**31S.—(1)** The Authority shall keep a register of licensees in which shall be entered —

- (a) the names of all persons licensed under this Part;

(b) the date the licence is granted to the person and the date of its expiry; and

(c) such other particulars in relation thereto as may from time to time be prescribed.

5 (2) A person may, on payment of the prescribed fee, if any —

(a) inspect the register of licensees during the ordinary hours of business of the Authority; or

(b) obtain from the Authority a certificate as to the licence or non-liscence of a named person on a specified date or during a specified period.

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(3) A certificate purporting to be signed by the Authority certifying that a person was or was not licensed under this Part on a specified date or during a specified period is admissible in any proceedings as evidence of the matters stated in the certificate.

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### **Exemption**

**31T.**—(1) The Minister may, by order published in the *Gazette*, exempt any person or class of persons, any premises or class of premises, or any essential construction material from all or any of the requirements of any provision in this Part.

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(2) Without prejudice to subsection (1), nothing in this Part shall prohibit or prevent any person not licensed under this Part from importing —

(a) worked monumental granite, granite sculptures or statues; or

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(b) millstones, grindstones, grinding wheels made of granite and the like, for grinding, sharpening, polishing, trueing or cutting, hand sharpening or polishing stones or metal.

### **Power to make regulations under this Part**

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**31U.**—(1) The Authority may, with the approval of the Minister, make regulations for carrying out the provisions of this Part and for the due administration thereof and, in particular, for or with respect to all or any of the following matters:

(a) the form and procedure for applications for licences, import permits and storage permits;

- (b) the keeping of records and furnishing of returns by licensees in relation to the import, storage and supply of essential construction materials by licensees;
  - (c) the duties of any person to whom any licence, import permit or storage permit is granted under this Part, and the duties of such a person upon the suspension, revocation or cancellation of such licence or permit;
  - (d) the requirements in accordance with which the import, storage or supply of essential construction materials by licensees are to be carried out;
  - (e) the procedures to be followed by any enforcement officer or authorised analyst in the sampling or evaluation of essential construction materials under this Part, including the periods within which any such evaluations are to be completed;
  - (f) the conduct by an enforcement officer or assisting officer of routine inspections of premises that are being used for the supply or storage of essential construction materials;
  - (g) the fees to be paid in respect of any matter or anything done, or any services rendered, by the Authority under or by virtue of this Part, and the waiver or refund, in whole or in part, by such officers of the Authority of any such fees in the circumstances of any particular case;
  - (h) the scheme referred to in section 31M for the designation of authorised analysts;
  - (i) the prescribing of offences in respect of the contravention of any regulations made under this section, and prescribing of fines, not exceeding \$20,000 and imprisonment which may not exceed 2 years or both, that may, on conviction, be imposed in respect of any such offence;
  - (j) the prescribing of anything that may be prescribed.
- (2) All regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

## Saving and transitional

**31V.** Notwithstanding the provisions of this Part, any person who, immediately before the commencement of section 4 of the Building and Construction Authority (Amendment) Act 2009, is in the business of importing essential construction materials shall be entitled to continue doing so for a period of 6 months from that date, and if before the expiry of that period a licence is applied for under this Part, that person shall be entitled to continue carrying on in the business of so importing until the date on which a licence under this Part is issued or the application for a licence under this Part is refused or withdrawn.”.

## Amendment of section 34

**5. Section 34 of the principal Act is amended by deleting subsection (2).**

## New sections 34A to 34E

**15. 6. The principal Act is amended by inserting, immediately after section 34, the following sections:**

### “Obstructing officers in execution of their duties, etc.

**34A.—(1)** Any person who obstructs, hinders or impedes any enforcement officer or assisting officer within the meaning of Part VIA or any other person acting under the direction of the Authority in the performance or execution of his duty or anything which he is authorised, empowered or required to do under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

**30. (2)** Any person who alters, suppresses, conceals or destroys any document which he is or is liable to be required, by or under this Act, to produce to an enforcement officer or assisting officer within the meaning of Part VIA shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 12 months or to both.

**35. (3)** Every police officer, officer of customs or immigration officer, and every enforcement officer and assisting officer within the meaning of Part VIA when exercising any powers under that Part or other provisions of this Act shall —

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- (a) if not in uniform, declare his office; and
  - (b) on demand, produce to any person affected by the exercise of those powers such identification card as the Commissioner of Police, the Director-General of Customs, the Comptroller of Immigration or the Chief Executive, respectively, may direct to be carried by the police officer, officer of customs, immigration officer, enforcement officer and assisting officer.
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- (4) It shall not be an offence for any person to refuse to comply with any request, demand or order made or given by —
  - (a) any police officer, officer of customs or immigration officer not in uniform who fails to declare his office and refuses to produce his identification card on demand being made by that person; or
  - (b) any enforcement officer and assisting officer within the meaning of Part VIA who fails to declare his office and refuses to produce his identification card on demand being made by that person.
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### **Offences by bodies corporate, etc.**

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- 34B.**—(1) Where an offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —
- (a) any director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
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- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where an offence committed by a partnership is proved —
- (a) to have been committed with the consent or connivance of any partner of the partnership; or
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- (b) to be attributable to any neglect on the part of any partner of the partnership,

he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly; and a fine imposed on a partnership in such proceedings shall be paid out of the partnership assets.

(4) Where an offence committed by an unincorporated association (other than a partnership) is proved —

- (a) to have been committed with the consent or connivance of any officer of the unincorporated association or any member of its governing body, as the case may be; or
- (b) to be attributable to any neglect on the part of any such officer or member,

he, as well as the unincorporated association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership which has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“offence” means an offence under this Act or any regulations made thereunder;

“officer” —

(a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

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

5                     (6) The Minister may make regulations providing for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

### **Composition of offences**

10                     **34C.**—(1) The Chief Executive or any officer of the Authority duly authorised by the Chief Executive to do so may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

- 15                     (a) one half of the amount of the maximum fine that is prescribed for the offence; or  
(b) \$5,000,

whichever is the lower.

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

20                     (3) All sums collected under this section shall be paid to the Authority.

### **Jurisdiction of court**

25                     **34D.** Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

### **Service of documents, etc.**

**34E.**—(1) Subject to subsection (3), any document required or authorised to be served under this Act may be served —

- 30                     (a) in the case of an individual —  
(i) by delivering it to the individual personally;  
(ii) by leaving it with an adult person apparently resident at, or by sending it by pre-paid registered post to, the usual

or last known address of the place of residence of the individual;

5 (iii) by leaving it with an adult person apparently employed at, or by sending it by pre-paid registered post to, the usual or last known address of the place of business of the individual;

(iv) by affixing a copy of the notice in a conspicuous place at the usual or last known address of residence or business of the individual;

10 (v) by sending it by facsimile transmission to the fax transmission number operated at the usual or last known address of the place of residence or business of the individual, or the last fax number given to the Authority or an authorised officer by the individual as the facsimile transmission number for the service of documents on the individual; or

15 (vi) by electronic communication, by sending an electronic communication of the document to the last email address given to the Authority or an authorised officer by the individual as the email address for the service of documents on the individual;

20 (b) in the case of a partnership other than a limited liability partnership —

25 (i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;

(ii) by leaving it at, or by sending it by pre-paid registered post to, the principal or last known place of business of the partnership in Singapore;

30 (iii) by sending it by facsimile transmission to the fax transmission number operated at the principal or last known place of business of the partnership in Singapore; or

35 (iv) by electronic communication, by sending an electronic communication of the document to the last email address given to the Authority or an authorised officer

by the partnership as the email address for the service of documents on the partnership; and

- (c) in the case of any limited liability partnership or any other body corporate —
  - 5 (i) by delivering it to the secretary or other like officer of the body corporate or, in the case of a limited liability partnership, the manager thereof;
  - (ii) by leaving it at, or by sending it by pre-paid registered post to, the registered office or principal office of the limited liability partnership or body corporate in Singapore;
  - 10 (iii) by sending it by facsimile transmission to the fax transmission number operated at the registered office or principal office of the limited liability partnership or body corporate in Singapore; or
  - 15 (iv) by electronic communication, by sending an electronic communication of the document to the last email address given to the Authority or an authorised officer by the limited liability partnership or body corporate as the email address for the service of documents on the limited liability partnership or body corporate.

(2) Where any notice or other document required or authorised to be served under this Act is —

- (a) sent by a facsimile transmission to the fax transmission number operated at the last known place of residence or business or registered office or principal office in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed on the day of transmission, subject to receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the place of residence or business or registered office or principal office, as the case may be;
- (b) sent by electronic communication to an email address in accordance with subsection (1), it shall be deemed to have been duly served on the person to whom it is addressed at

the time of entering the information system addressed to the email address; and

- 5           (c) sent by pre-paid registered post, it shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day the notice or document was posted, whether or not it is returned undelivered.

(3) Service of any document under this Act on a person by electronic communication may be effected only if the person gives as part of his or its address for service an email address.

10           (4) This section shall not apply to notices and documents to be served in proceedings in court.”.

## EXPLANATORY STATEMENT

This Bill seeks to amend the Building and Construction Authority Act (Cap. 30A) to regulate importers of essential construction materials so as to ensure a secure and reliable supply in Singapore of such materials of acceptable quality.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 9 to empower the Minister for National Development (the Minister) to assign new functions and duties to the Building and Construction Authority (the Authority) by assignment in writing.

Clause 3 amends section 12(1) to make it clear that the Authority’s power to delegate its functions, duties or powers to its members, officers or committees of persons does not include the function or power to make subsidiary legislation or the power to delegate itself.

Clause 4 inserts a new Part VIA (comprising new sections 31A to 31V) relating to the licensing of importers of essential construction materials so as to ensure a secure and reliable supply in Singapore of such materials of acceptable quality.

The new section 31A defines the various expressions used in the new Part VIA. The list of essential construction materials is non-exhaustive. The Minister may, by notification in the *Gazette*, expand the list of such raw materials in the future when the need arises.

The new section 31B makes it an offence for a person to carry on the business of importing essential construction materials unless the person has a valid licence. The penalty is a fine not exceeding \$500,000 or imprisonment for a term not exceeding 2 years or both and, in the case of a continuing offence, a fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

The new section 31C prohibits any licensee from importing any essential construction material unless the licensee has obtained an import permit from the Authority in respect of each consignment of essential construction material to be imported by him. The penalty for non-compliance is a fine not exceeding \$500,000 or imprisonment for a term not exceeding 2 years or both.

Under the new section 31D, a licensee who imports any essential construction material must also not use any premises for storing the imported essential construction material while subject to an isolation order except in or on premises that are authorised for such use under a storage permit granted by the Authority, in such quantities (if any) and in such manner and subject to such conditions as may be prescribed in relation to such essential construction material, and in accordance with every condition of that storage permit. A licensee also cannot use or permit to be used the essential construction material or any part thereof in any building works, street works or railway works in Singapore, or supply or permit to be supplied to another person the essential construction material, knowing or having reasonable cause to believe that the essential construction material is to be used in any building works, street works or railway works in Singapore, for so long as the consignment is subject to an isolation order. The penalty for non-compliance is a fine not exceeding \$40,000 or imprisonment for a term not exceeding 12 months or both and, in the case of a continuing offence, a fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

The new section 31E sets out the procedure for applying for a grant or renewal of licences under the new Part VIA. Every licence will, unless earlier revoked, be valid for such period as may be specified therein (being not longer than 24 months).

The new section 31F deals generally with the eligibility criteria for a licence. The Authority will look to the general character of the management of the applicant for a licence, its financial condition, the experience and resources of the applicant in providing a secure and reliable supply in Singapore of essential construction materials of acceptable quality and whether the public interest will be served by the granting of the licence. However, no company limited by guarantee or a corporation sole can be granted a licence.

The new section 31G allows the Authority to impose conditions when granting a licence. The Authority also has power to modify conditions or impose new conditions on a subsisting licence after due process.

The new section 31H sets out the procedure for applying for the grant of an import permit. Every import permit will, unless earlier cancelled, be valid for such period as may be specified therein (being not longer than 14 days) and may be extended. There is no renewal of an import permit.

The new section 31I sets out the procedure for applying for a grant of a storage permit under the new Part VIA. Every storage permit will, unless earlier cancelled, be valid for such period as may be specified therein (being not longer than 3 months) and may be extended. Storage permits will be granted free.

The new section 31J controls the use and dealing with imported essential construction materials after these land in Singapore. Having a licence does not

authorise the licensee to use in any building works, street works or railway works in Singapore or to supply to any other person any essential construction material imported by the licensee. Every imported consignment will be subject to an isolation order upon its entry into Singapore. The licensee who imported the essential construction material must, upon the entry into Singapore of the first consignment of the materials, arrange for samples from that consignment to be evaluated by an authorised analyst. Non-compliance attracts a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months or both. There is also power conferred on enforcement officers and assisting officers to take samples from any consignment of imported essential construction material, regardless whether the consignment is subject to an isolation order.

The new section 31K provides that the evaluation of any essential construction material for the purposes of the new Part VIA will include such analysis, test or examination of the essential construction material as is necessary to determine the acid soluble sulphate content, the chloride content and the alkali-silica reactivity of the essential construction material, whether the essential construction material is otherwise unsuitable, given its composition, for producing concrete for use in building works, street works or railway works in Singapore, and whether the essential construction material complies with such additional requirements that may be prescribed by regulations. The evaluation can only be carried out by an authorised analyst.

The new section 31L deals with essential construction material that the Authority, after considering the results of the authorised analyst who carried out an evaluation of that material, is not satisfied that the quality of the essential construction material is of acceptable quality for use in any building works, street works or railway works in Singapore (called failed construction material). In such a case, the Authority will refuse to lift the isolation order. The licensee will then, at his own expense and within the time prescribed in the regulations, have to remove from Singapore any remaining failed construction material in his possession, and any other essential construction material (whether or not from the same consignment) extracted or won from the same site as that from which the failed construction material was extracted or won, or destroy or otherwise dispose of it in the prescribed manner. The licensee must also immediately cease to further import, supply or use in any building works, street works or railway works in Singapore the essential construction material extracted or won from the same site as that from which the failed construction material was extracted or won, except in such manner and within such time as may be approved by the Authority. Where the licensee has already supplied the failed construction material to others, the licensee has in addition, to notify, within the prescribed time, in writing every person to whom the licensee has, between the date of entry into Singapore of the consignment of failed construction material and the 7th day after the authorised analyst's certificate relating to that consignment is received by the Authority (both days inclusive), supplied essential construction material, whether or not from the same consignment of the failed construction material, and to keep the Authority informed of the identity and business address of every such person so notified. Non-compliance with any of these requirements is a ground for proceedings under the new section 31N with a view to revoking or suspending the licence. On the other hand, if the Authority, after considering the results of the authorised analyst who carried out an evaluation of the

essential construction material, is satisfied that the quality of the essential construction material is of acceptable quality for use in any building works, street works or railway works in Singapore, the Authority will lift the isolation order in respect of that consignment.

The new section 31M empowers the Authority to make regulations to establish a scheme under which persons (who are not employees of the Authority) or bodies of persons may be designated as authorised analysts to carry out evaluations of essential construction materials for the purposes of the new Part VIA. It also relates to the admissibility as evidence of an authorised analyst's certificate.

The new section 31N sets out the circumstances under which a licence can be revoked by the Authority. The Authority may also, in any case in which it considers that no cause of sufficient gravity for revoking any licence exists, make lesser orders, such as suspending the licence for up to 6 months, imposing on the licensee concerned a financial penalty not exceeding \$500,000 or imposing such other directions or restrictions on the licensee's business as importer of such materials. The Authority cannot exercise any of these powers against a licensee without first giving an opportunity of being heard by a representative in writing or by counsel to the licensee against which the Authority intends to exercise its powers, being a period of not less than 7 and not more than 14 days.

The new section 31O sets out the circumstances under which an import permit or a storage permit can be cancelled by the Authority. An import permit granted to a licensee may be cancelled if the licensee's licence is suspended or the licensee is the subject of any proceedings under the new section 31N, and will automatically lapse upon the revocation of any licence granted to the same person. Similarly, a storage permit granted to a licensee in respect of any premises may be cancelled if the Authority has reasonable grounds to believe that the storage permit had been obtained by fraud or misrepresentation, the licensee has breached any condition of the storage permit or the licensee has failed to comply with the isolation order relating to the essential construction material.

The new section 31P provides for an avenue of appeal to the Minister against certain decisions made by the Authority under the new Part VIA. Specifically, there is a right of appeal against any decision of the Authority refusing an application for a licence, an import permit or a storage permit or for the renewal of a licence. The appeal has to be made within 14 days after being notified of such refusal and must be made in the prescribed manner to the Minister, whose decision is final. Where a licence granted by the Authority is subject to conditions, the licensee concerned may also, within 14 days after being notified of such conditions, appeal in the prescribed manner to the Minister. There is no right of appeal against refusal or cancellation of registration of sites. The Minister's decisions on all appeals are final.

The new section 31Q sets out the powers that enforcement officers and assisting officers may exercise when administering and enforcing the new Part VIA. Police officers, officers of customs and immigration officers have been conferred similar powers of enforcement.

The new section 31R provides for the forfeiture of items seized pursuant to the enforcement provisions of the new Part VIA.

The new section 31S requires the Authority to keep and maintain a register of licensees in relation to essential construction materials under the new Part VIA.

The new section 31T empowers the Minister to exempt persons, premises or essential construction material from all or any of the requirements of the provisions of the new Part VIA.

The new section 31U empowers the Authority, with the approval of the Minister, to make regulations for carrying out the purposes and provisions of the new Part VIA.

The new section 31V is a saving and transitional provision, which will allow any person who, immediately before the commencement of the new Part VIA, is carrying on the business of importing essential construction materials in Singapore to continue to do so for a period of 6 months provided that before the end of the 6 months, the person applies for the relevant licence. However, if a licence is refused or the application for a licence under the new Part is withdrawn, the person cannot continue to do so.

Clause 5 makes an amendment to section 34 as a consequence of the new section 34B (relating to corporate offenders, etc.).

Clause 6 inserts new sections 34A to 34E which deal with various miscellaneous matters now required with the introduction of the new Part VIA.

The new section 34A makes it an offence for any person to obstruct, hinder or impede any enforcement officer, assisting officer or any other person acting under the direction of the Authority in the performance or execution of his duty under the Act. It also makes it an offence for any person to alter, suppress, conceal or destroy any document which he is or is liable to be required under the Act to produce to an enforcement officer or assisting officer.

The new section 34B makes certain officers of a body corporate, a partnership or an unincorporated association liable for offences committed by the body corporate, partnership or unincorporated association.

The new section 34C provides for the composition of offences under the Act.

The new section 34D confers jurisdiction on a District Court to try any offence under the Act and to impose the full penalty or punishment in respect of the offence.

The new section 34E provides for the service of documents under the Act. It prescribes modes of service of documents (except court documents) on individuals, corporations, partnerships and bodies of persons.

## EXPENDITURE OF PUBLIC MONEY

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

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