

Registration of Criminals (Amendment) Bill

Bill No. 43/2002.

Read the first time on 31st October 2002.

A BILL

intituled

An Act to amend the Registration of Criminals Act (Chapter 268 of the 1985 Revised Edition) to provide for the taking and analysis of body samples from persons who are arrested for or convicted of registrable offences, and from volunteers in connection with the investigation of such offences; to provide for the removal from the register of the records of certain persons who have been convicted of registrable offences, and to provide for matters connected therewith.

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 Registration of Criminals (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Registration of Criminals Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately before the definition of “crime”, the following definition:

10 “ “authorised officer” means —

(a) a police officer;

(b) an officer of the Customs and Excise Department in any case concerning an offence or alleged offence against any law or provision of law which it is the function of that Department to enforce;

(c) an immigration officer;

(d) an officer of any law enforcement agency in any case concerning an offence or alleged offence against any law or provision of law which it is the function of that agency to enforce; and

(e) any other person who is duly appointed in writing by the Commissioner of Police as an authorised officer for the purposes of this Act or any provision thereof;”;

25 (b) by inserting, immediately after the definition of “crime”, the following definitions:

“ “DNA” means deoxyribonucleic acid;

“DNA database” means the database maintained under section 13F;

30 “DNA information” means genetic information derived from the forensic DNA analysis of a body sample;”;

(c) by deleting the definition of “police officer” and substituting the following definitions:

“law enforcement agency” means any body or organisation which is prescribed by the Minister to be a law enforcement agency for the purposes of this Act;

“other particulars”, in relation to a person, means any particulars, information or description of that person, other than his registrable particulars, that may be relevant or useful in the identification of that person;

“photograph”, in relation to a person, includes the photograph of any distinguishing feature or mark on the body of that person;”.

Repeal and re-enactment of sections 8, 9 and 10

3. Sections 8, 9 and 10 of the principal Act are repealed and the following sections substituted therefor:

“Finger impressions, photographs and particulars of person under arrest

8. Any authorised officer may —

- (a) take or cause to be taken the finger impressions and photographs of any person under arrest who is accused of any crime;
- (b) make or cause to be made a record of the registrable particulars and any other particulars of such person; and
- (c) send any finger impression, photograph or record so taken or made to the Registrar for identification and report.

Finger impressions, photographs and particulars of convicted person

9. When a person has been convicted of a crime, the authorised officer in charge of the case shall —

- (a) take or cause to be taken the finger impressions and photographs of the person so convicted;
- (b) make or cause to be made a record of —

- (i) the particulars of the conviction and the sentence or order made in respect of that person; and
 - (ii) any other particulars of that person as the authorised officer thinks necessary; and
- 5 (c) send a copy of the finger impression, photograph and record so taken or made to the Registrar.

Acquittal or discharge of person from whom finger impressions, etc., taken under section 8

10 **10.** Where the finger impressions, photographs and registrable particulars of a person have been sent to the Registrar under section 8(c) for identification and report and that person is subsequently acquitted or discharged without a conviction being recorded against him —

- 15 (a) the authorised officer in charge of the case shall immediately inform the Registrar of the acquittal or discharge; and
- (b) the Registrar shall cause the finger impressions, photographs and registrable particulars that he had received in respect of that person under section 8(c) to be destroyed.”.

Repeal and re-enactment of section 13

20 **4.** Section 13 of the principal Act is repealed and the following section substituted therefor:

“Duty to submit to taking of photographs and finger impressions

25 **13.—(1)** It shall be the duty of every person under arrest who is accused of a crime and every person who is convicted of a crime or ordered to be banished, expelled or deported —

- (a) to submit to the taking of his photograph and his finger impressions; and
 - (b) to provide such registrable particulars and other particulars as may be required under this Act.
- 30 (2) Where a person to whom subsection (1) applies refuses, without reasonable excuse, to submit to the taking of his photograph or finger impressions or to provide any registrable particulars or other

particulars when lawfully required by an authorised officer or by an officer in charge of a prison —

- 5 (a) that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one month or to both; and
- 10 (b) the authorised officer or officer in charge of the prison may, with such assistance as is required, use such force as is reasonably necessary for the purposes of taking the photograph or finger impressions of that person.”.

New sections 13A to 13G (new Part IV)

5. The principal Act is amended by inserting, immediately after section 13, the following heading and sections:

“PART IV

15

TAKING OF BODY SAMPLES

Interpretation of this Part

13A.—(1) In this Part —

“appropriate consent” means —

- 20 (a) in relation to a person who has attained the age of 16 years, the consent in writing of that person;
- (b) in relation to a person who has not attained the age of 16 years but has attained the age of 14 years, the consent in writing of both that person and of his parent or guardian; and
- 25 (c) in relation to a person who has not attained the age of 14 years, the consent in writing of his parent or guardian,
- 30 given to the authorised officer in charge of the case after the person concerned or his parent or guardian (as the case may be) has been informed by the authorised officer of the purpose for which a body sample is required from such person and the manner by which such body sample is to be taken from him;

“authorised analyst” means a person appointed by the Commissioner of Police to be an analyst for the purposes of this Part;

“body sample” means —

- 5 (a) a sample of blood;
- (b) a sample of head hair, including the roots thereof;
- (c) a swab taken from a person’s mouth; or
- (d) such other sample as may be prescribed under subsection (2);

10 “intimate sample” means any body sample that is obtained by means of any invasive procedure;

“registered medical practitioner” has the same meaning as in the Medical Registration Act (Cap. 174) and includes a dentist registered under the Dentists Act (Cap. 76);

15 “volunteer” means a person who voluntarily gives his consent under section 13D for the taking of a body sample from him.

(2) Subject to subsections (3) and (4), the Minister may prescribe additional types of body samples that may be taken under this Part.

20 (3) The additional types of body samples that may be prescribed under subsection (2) shall not include body samples to be obtained from —

- (a) the genital or anal area of a person’s body;
- (b) a person’s body orifice other than the mouth; or
- (c) the breasts of a woman.

25 (4) Where the Minister prescribes an intimate sample under subsection (2) as an additional type of body sample which may be taken under this Part, the provisions of section 13C (which requires consent for the taking of a sample of blood) shall apply in respect of the taking of such intimate sample in the same manner as they apply
30 in respect of the taking of a sample of blood.

Body samples may be taken from arrested persons, convicted persons and prisoners

5 **13B.**—(1) Subject to the provisions of this Part, a body sample may be taken for forensic DNA analysis from any person who, on or after the date of commencement of the Registration of Criminals (Amendment) Act 2002 —

- (a) is arrested and accused of a crime;
- (b) is convicted of a crime; or
- 10 (c) is serving his term of imprisonment in connection with a crime of which he has been convicted.

(2) A body sample may be taken from a person under subsection (1) in addition to any photograph or finger impression taken under Part III.

Consent for taking of blood sample

15 **13C.**—(1) No sample of blood shall be taken from a person who is arrested and accused of a crime unless the appropriate consent is given for the taking of the sample.

20 (2) If the appropriate consent required under subsection (1) for the taking of a sample of blood from a person is refused without good cause or cannot be obtained despite all reasonable efforts, that person may be taken before a Magistrate and the Magistrate may, if satisfied that there is reasonable cause to believe that the sample may confirm or disprove whether that person was involved in committing the crime, order that the person provide the sample required.

25 (3) Where it is shown that the appropriate consent required under subsection (1) for the taking of a sample of blood from a person was refused without good cause, the court, in determining —

- (a) whether to commit that person for trial in connection with the crime of which he is accused of committing;
- 30 (b) whether there is a case to answer against that person; or
- (c) whether that person is guilty of the crime with which he has been charged,

may draw such inference from the refusal as it thinks proper and, based on such inference, may treat the refusal as corroboration or amounting to corroboration of any relevant evidence against that person.

5 **Body samples given voluntarily**

13D.—(1) Subject to subsections (2) and (3), any person who —

(a) was present at the scene of a crime when it was committed;
or

10 (b) is being questioned in connection with the investigation of a
crime,

may voluntarily consent to a body sample being taken from him for forensic DNA analysis.

15 (2) No body sample shall be taken from a volunteer under subsection (1) unless the appropriate consent is given for the taking of the sample.

20 (3) Notwithstanding subsection (2), if the consent of the parent or guardian of a volunteer who is below the age of 16 years is refused without good cause or cannot be obtained despite all reasonable efforts but the volunteer is still willing to give the body sample, the body sample may be taken from the volunteer with the sanction of a Magistrate.

Taking and analysis body samples

13E.—(1) For the purpose of this Part, a body sample may only be taken by —

25 (a) a registered medical practitioner;

(b) an authorised officer who has received training for the purpose; or

(c) any other suitably qualified or trained person who is authorised by the Commissioner of Police for the purpose.

30 (2) Before taking any body sample under this Part, the person authorised under subsection (1) to take the sample must satisfy himself that the taking of the sample does not endanger the person from whom it is to be taken.

(3) The fact that a body sample has been taken under this Part shall be recorded by the person who took the sample in such form or manner as may be required by the Commissioner of Police.

(4) Every body sample taken under this Part shall be sent to an authorised analyst for forensic DNA analysis.

(5) Where a person from whom a body sample is lawfully required under this Part refuses, without reasonable excuse, to give the sample or to allow the sample to be taken from him, or otherwise hinders or obstructs the taking of the sample from him —

(a) that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one month or to both; and

(b) the person authorised under subsection (1) to take the sample may, with such assistance as is required, use such force as is reasonably necessary for the purposes of taking the sample.

DNA database

13F.—(1) The Registrar shall maintain (whether in computerised form or otherwise) a DNA database in which shall be stored all DNA information derived from a body sample taken from a person under this Part.

(2) Any information stored in the DNA database may be used for any of the following purposes:

(a) for forensic comparison with any other DNA information in the course of an investigation of an offence conducted by a police officer;

(b) for any proceedings for any offence;

(c) for administering the DNA database for the purposes of this Part; and

(d) for such other purposes as may be prescribed.

Removal of DNA information from register upon acquittal or discharge, etc.

5 **13G.** Where any body sample has been taken under section 13B(1)(a) from a person who is under arrest and accused of a crime, or under section 13D from a volunteer, and —

- (a) investigations reveal that he was not involved in the commission of any crime or, in the case of a volunteer, he is not suspected of committing any crime;
- 10 (b) it is decided that he shall not be charged with any crime and he has neither admitted to, nor been dealt with by way of being cautioned by any police officer in respect of any crime;
- (c) the charge or all the charges against him in respect of any crime or crimes (as the case may be) is or are withdrawn;
- 15 (d) he is discharged by a court before conviction of the crime or of all the crimes (as the case may be) with which he has been charged;
- (e) he is acquitted of the crime or of all the crimes (as the case may be) with which he has been charged, at trial or on appeal; or
- 20 (f) he is subsequently convicted of the crime but the Commissioner of Police directs under section 7 that he need not be registered under Part II,

25 the authorised officer in charge of the case shall immediately inform the Registrar of the occurrence of the relevant event and the Registrar shall immediately remove the DNA information of that person from the DNA database.”.

New section 13H, repeal and re-enactment of section 14 and new section 14A

30 **6.** Section 14 of the principal Act is repealed and the following heading and sections substituted therefor:

“PART V

MISCELLANEOUS

Removal of registrable particulars, etc., of person upon death or attainment of 100 years of age

5 **13H.** The Registrar shall remove from the register and from the DNA database the registrable particulars and DNA information of any person —

 (a) whose death has been registered under the Registration of Births and Deaths Act (Cap. 267); or

10 (b) who, the Registrar is satisfied, has attained 100 years of age.

Evidence

14.—(1) Subject to subsection (2) —

 (a) any photograph, finger impression or registrable particulars recorded in the register;

15 (b) any record from the DNA database;

 (c) any certificate or report purporting to have been compiled from particulars recorded in the register or DNA database under the provisions of this Act; and

20 (d) any document purporting to be a report upon any matter or thing relating to finger impressions or DNA information duly submitted to the Registrar for report,

shall, if duly produced from proper custody and authenticated by the signature of the Registrar, be admissible in evidence in any court, and shall be sufficient proof of the facts thereon stated or appearing unless
25 the same is disproved.

 (2) Notwithstanding subsection (1), in any trial at which any of the matters referred to in subsection (1) is tendered in evidence, the court or the accused may require that the Registrar shall be called as a witness.

(3) Where the accused requires the Registrar to be called as a witness, the accused shall give notice to the Public Prosecutor not less than 3 clear days before the commencement of the trial.

Rules

5 **14A.**—(1) The Minister may make rules for carrying out the purposes of this Act and for any matter which is required under this Act to be prescribed.

(2) All rules made under this Act shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

10 **Division of Act into Parts**

7. The principal Act is amended —

(a) by inserting, immediately above section 1, the following heading:

“PART I

PRELIMINARY”;

15 (b) by inserting, immediately below section 3, the following heading:

“PART II

REGISTRATION OF CRIMINALS”;

(c) by inserting, immediately below section 7, the following heading:

“PART III

20 TAKING OF FINGER IMPRESSIONS, PHOTOGRAPHS
AND PARTICULARS”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Registration of Criminals Act (Cap. 268).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by inserting 7 new definitions of certain expressions as used in the Act upon being amended by the Bill, namely, “authorised officer”, “DNA”, “DNA database”, “DNA information”, “law enforcement agency”, “other particulars” and “photograph”.

The new definition of “authorised officer” is intended to enlarge the class of persons who may exercise the powers currently conferred by the Act on police officers and officers of the Customs and Excise Department. With the amendment, those powers will also be exercisable by immigration officers, officers of prescribed law enforcement agencies and persons duly appointed in writing by the Commissioner of Police as authorised officers for the purposes of the Act.

Clause 3 repeals and re-enacts sections 8, 9 and 10.

The new section 8 empowers any authorised officer —

- (a) to take the finger impressions and photographs of any person under arrest who is accused of a registrable offence (referred to in the Act as a crime);
- (b) to make a record of the registrable particulars and other particulars of such person; and
- (c) to send any finger impression, photograph or record so taken or made to the Registrar for identification and report.

The new section 9 requires an authorised officer —

- (a) to take the finger impressions and photographs of any person who is convicted of a crime;
- (b) to make a record of certain registrable particulars and other particulars of such person; and
- (c) to send any finger impression, photograph or record so taken or made to the Registrar.

The new section 10 provides for the destruction of the finger impressions, photographs and registrable particulars of any person upon his being acquitted or discharged without a conviction being recorded against him.

Clause 4 repeals and re-enacts section 13 with some drafting modifications to add to the duties currently imposed on persons under arrest who are accused of a crime and on persons who are convicted of a crime or who are ordered to be banished, expelled or deported. Currently such persons are only required to submit to the taking of their photographs and finger impressions. With the amendment, they will be required to also provide such registrable particulars and other particulars as may be required under the Act.

The maximum fine for an offence under section 13 is also increased from \$250 to \$1,000.

Clause 5 inserts 7 new sections (namely sections 13A to 13G) which are organised under a new Part IV (Taking of Body Samples).

These new sections provide for the taking of body samples for forensic DNA analysis from persons who are accused of a crime, persons who are convicted of a crime, persons serving imprisonment upon being convicted of a crime and volunteers under the new section 13D.

The new section 13A defines certain terms used in the new Part IV. The section also empowers the Minister to prescribe additional types of body samples that may be taken under that Part.

The new section 13B allows for body samples to be taken from persons who, on or after the date of commencement of the Bill —

- (a) are arrested and accused of registrable crimes;
- (b) are convicted of registrable crimes; or
- (c) are serving their terms of imprisonment in respect of registrable crimes.

The new section 13C requires the appropriate consent to be given before a sample of blood is taken from any person who is arrested and accused of a registrable crime.

If, however, the requisite consent for the taking of a sample of blood from a person is refused without good cause or cannot be obtained despite all reasonable efforts, that person may be taken before a Magistrate who may, in the appropriate circumstances, order that the person provide the sample required.

Furthermore, where the requisite consent for the taking of a sample of blood from a person is refused without good cause, the court, in dealing with that person in respect of the crime of which he is accused of committing, may draw such inference from the refusal as it thinks proper and treat the refusal as corroboration or amounting to corroboration of any relevant evidence against that person.

By virtue of the new section 13A, the provisions of the new section 13C will apply in respect of any intimate sample prescribed under the new section 13A.

The new section 13D relates to body samples given voluntarily by persons who were present at the scene of a crime when it was committed or who are being questioned in connection with the investigation of a crime.

The new section 13E deals with the procedure for the taking of body samples. In particular, the section —

- (a) specifies the persons by whom body samples may be taken for the purposes of the new Part IV;
- (b) makes it an offence for any person from whom a body sample is lawfully required under the new Part IV to refuse, without reasonable excuse, to give or allow the sample to be taken from him, or to otherwise hinder or obstruct the taking of the sample from him; and
- (c) allows for the use of reasonable force for the taking of a body sample from a person who, when lawfully required to provide such sample under the new Part IV, refuses to do so.

The new section 13F establishes a DNA database in which is to be stored all DNA information derived from body samples taken under the new Part IV. The section also spells out the purposes for which such DNA information may be used.

The new section 13G provides for the removal of DNA information from the DNA database in certain circumstances.

Clause 6 —

- (a) inserts a new section 13H which provides for the removal of the registrable particulars of a person from the register and for the removal of the DNA information relating to such person from the DNA database upon the death of such person or upon his attaining the age of 100 years;
- (b) repeals and re-enacts section 14 to incorporate certain consequential amendments arising from the insertion of the new Part IV;
- (c) inserts a new section 14A which empowers the Minister to make rules for the purposes of the Act; and
- (d) incorporates sections 13H to 16 under a new Part V (Miscellaneous).

Clause 7 re-organises the rest of the existing provisions of the Act into Parts, so as to enhance the presentation of the Act.

EXPENDITURE OF PUBLIC MONEY

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