

Hostage-Taking Bill

Bill No. 13/2010.

Read the first time on 19th July 2010.

HOSTAGE-TAKING ACT 2010

(No. of 2010)

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A BILL

i n t i t u l e d

An Act to give effect to the International Convention against the Taking of Hostages and for matters connected therewith and to make consequential amendments to the Banking Act (Chapter 19 of the 2008 Revised Edition), the Penal Code (Chapter 224 of the 2008 Revised Edition) and the Road Vehicles (Special Powers) Act (Chapter 277 of the 2007 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 Hostage-Taking Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Interpretation

2. In this Act, unless the context otherwise requires —

“bank” means —

(a) a bank licensed under the Banking Act (Cap. 19); or

10 (b) a merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186),

and includes a finance company licensed under the Finance Companies Act (Cap. 108);

15 “Convention” means the International Convention against the Taking of Hostages adopted by the General Assembly of the United Nations on 17th December 1979;

“Convention country” means a foreign country that is a Party to the Convention;

“country” includes a State or territory, as the case may be;

20 “hostage-taking offence” means —

(a) the offence under section 3; or

(b) an abetment of, or a conspiracy or attempt to commit, the offence under section 3.

Hostage-taking

25 3.—(1) Whoever —

(a) seizes or detains any person; and

30 (b) threatens to cause death or hurt to such person or to continue to detain such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt or may continue to be detained, or causes death or hurt to such person,

in order to compel —

- 5 (i) the Government, the government of another State or an international intergovernmental organisation to do or abstain from doing any act shall be guilty of an offence, and shall be punished with death or imprisonment for life, and shall, if he is not sentenced to death, also be liable to fine or to caning; or
- 10 (ii) any other person to do or abstain from doing any act shall be guilty of an offence, and shall be punished with imprisonment for a term which may extend to 15 years, and shall also be liable to fine or to caning.

(2) Subsection (1) does not apply to any act which is an offence under section 3 of the Geneva Conventions Act (Cap. 117).

Extra-territoriality

15 **4.** Every person who, outside Singapore, commits an act that, if committed in Singapore, would constitute a hostage-taking offence is deemed to commit the act in Singapore and may be proceeded against, charged, tried and punished accordingly.

Information relating to hostage-taking offence

20 **5.—**(1) Every person in Singapore who has information which he knows or believes may be of material assistance —

- (a) in preventing the commission by another person of a hostage-taking offence; or
- (b) in securing the apprehension, prosecution or conviction of another person, in Singapore, for a hostage-taking offence,
- 25 and who fails to disclose the information immediately to a police officer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

30 (2) No criminal or civil proceedings shall lie against a person for any disclosure made in good faith under this section.

(3) A person who makes a disclosure in good faith under this section shall not be treated as being in breach of any restriction upon the disclosure of information imposed by law, contract or rules of professional conduct.

Power to freeze bank account

6.—(1) The Public Prosecutor may, where he is satisfied that it is likely that the money for the payment of ransom for the release of any person may be paid out of any account with any bank, by order direct any bank
5 not to pay any money out of, nor to pay cheques drawn on, such account for a specified period not exceeding one month.

(2) A bank which complies with an order under subsection (1) shall be relieved of any liability to any other person in respect of the payment prohibited by that order.

10 (3) A bank which fails to comply with an order under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000.

Power to order inspection of customer information

7.—(1) Notwithstanding anything to the contrary in any other written
15 law, the Public Prosecutor may, if he considers that any evidence of the commission by a person of —

(a) a hostage-taking offence; or

(b) an act which is an offence by virtue of section 4,

20 is likely to be found in any document containing customer information relating to that person, to the spouse, son or daughter of that person or to a person reasonably believed by the Public Prosecutor to be a trustee or agent for that person, by order authorise any police officer of or above the rank of assistant superintendent named in the order to inspect any document of a bank specified in the order.

25 (2) The police officer so authorised may, at all reasonable times, enter the premises of the bank specified in the order and inspect the documents kept therein and may take copies of any relevant entry in any such document.

30 (3) Any person who without reasonable excuse fails to produce any document demanded by the police officer which is in his possession or control 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 2 years or to both.

(4) The Public Prosecutor may delegate his power under this section to a Deputy Public Prosecutor or the Commissioner of Police, except the power of delegation conferred by this subsection.

5 (5) In this section, “customer information” has the meaning given to that expression in section 40A of the Banking Act (Cap. 19).

Power to obtain information

8.—(1) In the course of any investigation into or proceedings relating to a hostage-taking offence by a person or an act by a person which is an offence by virtue of section 4, the Public Prosecutor may by order —

- 10 (a) require the person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by that person and by the spouse, son or daughter of that person, and specifying the date on which each of the properties enumerated was acquired and whether it was acquired
- 15 by way of purchase, gift, bequest, inheritance or otherwise;
- (b) require the person to furnish a sworn statement in writing of any money or other property paid or disposed of by him during such period as may be specified in the order;
- 20 (c) require any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by that person where the Public Prosecutor has reasonable grounds to believe that that information may be relevant to the investigation or proceedings;
- 25 (d) require the Comptroller of Income Tax to furnish all information available to the Comptroller relating to the affairs of the person or of the spouse, son or daughter of the person and to produce or furnish any document or a certified copy of any document specified in the order relating to that person or the spouse, son or daughter of that person which is in the possession or under the
- 30 control of the Comptroller;
- (e) require the person in charge of any ministry or department of the Government or the president, chairman, manager or chief executive officer of any statutory board to furnish, as specified in the order, any document or a certified copy of any document
- 35 which is in his possession or under his control; and

(f) require a bank to give copies of the accounts of the person or of the spouse, son or daughter of the person with the bank.

(2) Subject to subsection (3), every person to whom an order is given under subsection (1) shall, notwithstanding any obligation of secrecy imposed under any written law or rule of law, comply with the terms of the order within such time as may be specified therein.

(3) Subsection (2) does not apply to a person referred to in subsection (1)(e) if the Minister responsible for the ministry or department of the Government or for the statutory board (as the case may be) certifies that it would be against the interests of national security for the contents of the document to be disclosed.

(4) For the avoidance of doubt, any disclosure of the contents of a document to the Minister for the purposes of his certification under subsection (3) does not constitute a breach of any obligation of secrecy imposed under any written law or rule of law.

(5) Any person who contravenes subsection (2) 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 2 years or to both.

(6) Any person who, in purported compliance with an order under subsection (1), furnishes any information, statement or document known to him to be false or misleading in a material particular, 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 2 years or to both.

No prosecution without Public Prosecutor's consent

9. A prosecution under this Act shall not be instituted except by or with the consent of the Public Prosecutor.

Protection of informers

10.—(1) Except as provided in subsection (3), no witness in any civil or criminal proceedings shall be obliged —

- (a) to disclose the name or address of any informer who has given information with respect to an offence under this Act; or
- (b) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of any informer.

(2) If any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any informer is named or described or which may lead to his discovery, the court shall cause those entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If —

(a) in any proceedings for an offence under this Act, the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true; or

(b) in any other proceedings, the court is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer,

the court may permit inquiry and require full disclosure concerning the informer.

Offences by bodies corporate, etc.

11.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any act or default on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(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 under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any act or default on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

5 (4) Where an offence under this Act committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10 (5) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

15 (b) to be attributable to any act or default on the part of such an officer or a member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(6) In this section —

20 “body corporate” and “partnership” exclude a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“officer” —

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

30 (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 the president, secretary or member of the committee and includes any person purporting to act in any such capacity;

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

(7) The Minister may make rules to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate, limited liability partnership or unincorporated association formed or recognised under the law of a territory outside Singapore.

Power of arrest

12. A police officer may arrest without warrant any person whom he reasonably believes has committed an offence under this Act.

Assistance in criminal matters for Convention offences

13.—(1) For the purposes of the provision of assistance under Part III of the Mutual Assistance in Criminal Matters Act (Cap. 190A) to a foreign country for a criminal matter involving a relevant offence of that country, the relevant offence shall be deemed not to be an offence of a political character.

(2) In this section —

“criminal matter” has the meaning given to that expression in section 2(1) of the Mutual Assistance in Criminal Matters Act;

“relevant offence”, in relation to a foreign country, means an offence against the law of that country that consists of or includes conduct which, if it had occurred in Singapore, would have constituted a hostage-taking offence.

Extradition

14.—(1) There shall be deemed to be included in the list of offences in the First Schedule to the Extradition Act (Cap. 103) all hostage-taking offences.

(2) Subject to subsection (3), where no extradition treaty is in force between Singapore and a Convention country, a notification in the *Gazette* under section 4 of the Extradition Act may be made applying that Act as if there were an extradition treaty between Singapore and that country.

(3) Where the Extradition Act is applied under subsection (2), that Act shall have effect in relation to that country as if the only extradition crimes under that Act were the relevant offences of that country.

(4) Subsection (3) is without prejudice to any other notification made under section 4 of the Extradition Act.

(5) Where —

(a) an extradition treaty is in force between Singapore and a Convention country; and

5 (b) the treaty does not provide for the extradition of persons accused of or convicted of a relevant offence of that country,

a notification in the *Gazette* under section 4 of the Extradition Act (Cap. 103) may be made applying that Act in relation to that country as if the treaty provided for the matter referred to in paragraph (b).

10 (6) Where a notification referred to in subsection (5) is made, any limitation, condition, exception or qualification specified in any other notification made under section 4 of the Extradition Act, or in any Order in Council referred to in section 3 of that Act, in relation to that country shall, to the extent that it prevents the relevant offence from being considered an extradition crime in relation to that country, be disregarded
15 in the application of that Act in relation to that country.

(7) For the purposes of the Extradition Act —

20 (a) any act, wherever committed, which is a relevant offence of a Convention country in the case of which that Act has been applied by a notification in the *Gazette* made under section 4 of that Act, shall be deemed to be an offence within the jurisdiction of that country; and

(b) any such offence shall be deemed not to be an offence of a political character.

25 (8) In this section, “relevant offence”, in relation to a Convention country, means an offence against the law of, or of part of, that country where the act or omission constituting the offence or the equivalent act or omission would, if it took place in Singapore —

(a) constitute a hostage-taking offence; or

30 (b) be such an offence if the description concerned contained a reference to any intent or state of mind on the part of the person committing the offence, or to any circumstance of aggravation, necessary to constitute the offence.

Consequential amendment to Banking Act

15. Part III of the Third Schedule to the Banking Act (Cap. 19) is amended by inserting, immediately after the words “the Goods and Services Tax Act (Cap. 117A),” in the definition of “specified written law”, the words “the Hostage-Taking Act 2010,”.

Consequential amendment to Penal Code

16. Section 364A of the Penal Code (Cap. 224) is repealed.

Consequential amendment to Road Vehicles (Special Powers) Act

17. Paragraph 1 of the Schedule to the Road Vehicles (Special Powers) Act (Cap. 277) is amended by inserting, immediately after sub-paragraph (d), the following sub-paragraph:

“(da) section 3 of the Hostage-Taking Act 2010;”.

EXPLANATORY STATEMENT

This Bill seeks to enable Singapore to ratify and give effect to the International Convention against the Taking of Hostages adopted by the General Assembly of the United Nations on 17th December 1979 (the Convention).

The Bill also makes consequential amendments to the Banking Act (Cap. 19), the Penal Code (Cap. 224) and the Road Vehicles (Special Powers) Act (Cap. 277).

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill.

Clause 3 makes it an offence to seize or detain any person and to threaten to kill, injure or continue detaining him unless a third party does or abstains from doing any act. The third party may be the Government, a government of another State, an international intergovernmental organisation or any person. This gives effect to Articles 1 and 2 of the Convention.

Clause 4 provides that every person who, outside Singapore, commits an act that, if committed in Singapore, would constitute a hostage-taking offence (as defined in clause 2) is deemed to commit the act in Singapore and may be proceeded against, charged, tried and punished accordingly. This enables Singapore to extradite or prosecute offenders in accordance with Article 8 of the Convention.

Clause 5 provides that every person in Singapore who has information which he knows or believes may be of material assistance in preventing the commission of a hostage-taking offence or in securing the apprehension, prosecution or conviction of a person for such offence, must immediately inform a police officer.

Clauses 6, 7 and 8 give the Public Prosecutor powers to make orders for the purposes of preventing the payment of ransom money and for investigating or prosecuting offences under the Bill. These clauses are similar to sections 6, 7 and 8 of the Kidnapping Act (Cap. 151).

Clause 6 empowers the Public Prosecutor to order the freezing of a bank account if he is satisfied that money for paying a ransom is likely to be paid out of it.

Clause 7 empowers the Public Prosecutor to authorise a police officer to inspect any book, account or other document kept by a bank if he considers that any evidence of the commission of an offence under the Bill is likely to be found in the document.

Clause 8 empowers the Public Prosecutor to obtain information for the purpose of any investigation or proceedings for an offence under the Bill. He may obtain from any person a sworn statement regarding properties belonging to or possessed or disposed of by him. He may also require the Comptroller of Income Tax or any public body to furnish information and documents, as well as any bank to give copies of bank accounts.

Clause 9 provides that no prosecution under the Bill may be instituted except by or with the consent of the Public Prosecutor.

Clause 10 provides for the protection of informers.

Clause 11 relates to the liability of officers and partners, etc., for any offence under the Bill committed by a company or firm.

Clause 12 allows a police officer to arrest without warrant any person reasonably believed to have committed an offence under the Bill.

Clause 13 provides that in the provision of mutual legal assistance to a foreign country for a criminal matter involving an offence corresponding to a hostage-taking offence, that offence will be deemed not to be an offence of a political character. This is because the Mutual Assistance in Criminal Matters Act (Cap. 190A) prohibits assistance to be given if the Attorney-General opines that the offence is of a political character.

Clause 14 provides that —

- (a) hostage-taking offences will be extraditable offences;
- (b) where there is no extradition treaty in force between Singapore and a Convention country, a notification may be made under section 4 of the Extradition Act (Cap. 103) applying that Act as if there were an extradition treaty between them, and in that event that Act will apply to that country as if the only extradition crimes within the meaning of that Act were offences of that country that correspond to hostage-taking offences; and
- (c) where there is an extradition treaty in force between Singapore and a Convention country but the treaty does not provide for the extradition of persons accused of or convicted of an offence of that country that corresponds to a hostage-taking offence, a notification may be made under section 4 of the Extradition Act applying that Act as if the treaty provided for

that matter; and in that event any limitation, condition, exception or qualification specified in any instrument that prevents such offence from being considered an extradition crime will be disregarded in the application of that Act to the country.

Clause 15 makes a consequential amendment to the Banking Act (Cap. 19) to insert the Hostage-Taking Act 2010 in the definition of “specified written law” in Part III of the Third Schedule.

Clause 16 repeals section 364A of the Penal Code (Cap. 224) (Kidnapping or abducting in order to compel the Government, etc.), as the substance of that provision is reproduced and expanded under clause 3.

Clause 17 makes a consequential amendment to the Schedule to the Road Vehicles (Special Powers) Act (Cap. 277).

EXPENDITURE OF PUBLIC MONEY

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

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