



The Criminal Law (Temporary Provisions) (Amendment) Bill

– INCREASING ACCOUNTABILITY AND CODIFYING EXISTING LAW

1. The CLTPA was extended for another five years by Parliament on 6 February 2018.
2. There were some amendments made to the CLTPA.
3. They are as follows:
 - (I) **Powers of Detention under the CLTPA to only apply to a scheduled list of activities**
4. At present, a Detention Order (“DO”) can be made against a person if that person has been associated with activities of a criminal nature, and the Minister is satisfied that detention is necessary in the interests of public safety, peace and good order within Singapore.
5. The amendments through the new section 30(3) add another requirement, in addition to the first condition stated in paragraph 4 above. It provides

that the Minister can only make a DO against a person if the person is associated with a criminal activity listed in the new Fourth Schedule.

6. There will thus be two requirements before a DO can be issued:
 - (i) The Minister must be satisfied that the detention is necessary in the interests of public safety, peace and good order within Singapore [current requirement]; and
 - (ii) The Minister must be satisfied that the person is associated with a criminal activity listed in the new Fourth Schedule.
7. There have been some suggestions that imposing this requirement increases the Minister's powers. These suggestions are not accurate.



(II) Codification of existing law

8. The Court of Appeal in the case of *Tan Seet Eng v AG* (the "**Dan Tan case**") said that under the CLTPA, the Minister had the power and the responsibility to make decisions as to what the facts were, apply those facts to the relevant rules and considerations, and exercise his discretion consequently.
9. The Courts have accepted that it is for the Minister to decide on the facts.
10. The new section 30(2) sets out this position. It states:

“**Every decision of the Minister on a matter
in subsection (1) is final.**”

11. The CA has also stated that its powers of Judicial Review (based on the traditional tests of illegality, irrationality and procedural impropriety) apply to the CLTPA.

12. These Judicial Review powers (as stated by the CA) continue to apply to the CLTPA.
13. There have been some suggestions that the new section 30(2) removes the Court's powers of Judicial Review. These suggestions are inaccurate and have no basis in law.

(III) Enabling holistic rehabilitation care (e.g. police supervision, counselling) by taking into account individual risk levels and needs

14. Under the CLTPA, the Minister can make a Police Supervision Order ("**PSO**") against a person whom the Minister is satisfied has been associated with activities of a criminal nature, and the Minister is also satisfied that the person should be subject to the supervision of the Police.

15. After the amendments take effect, the list of obligations that a person under a PSO must comply with will be set out in Rules. The Minister can tailor conditions for each supervisee, based on the different risks and needs of supervisees, for example, requiring a supervisee to undergo counselling to facilitate rehabilitation. As new forms of rehabilitation are constantly emerging and evolving, the Minister will also be able to include new conditions in the Rules to enable holistic rehabilitation of supervisees.



For more details on the amendments, please refer to the speeches delivered by Minister K Shanmugam:

[www.mha.gov.sg/newsroom/in-parliament/parliamentary-speeches/newsroom-detail-page?news=second-reading-of-the-criminal-law-\(temporary-provisions\)-\(amendment\)-bill---speech-by-mr-k-shanmugam-minister-for-home-affairs-and-minister-for-law](http://www.mha.gov.sg/newsroom/in-parliament/parliamentary-speeches/newsroom-detail-page?news=second-reading-of-the-criminal-law-(temporary-provisions)-(amendment)-bill---speech-by-mr-k-shanmugam-minister-for-home-affairs-and-minister-for-law)

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