

# **Criminal Procedure Code (Amendment) Bill**

**Bill No. 34/2012.**

*Read the first time on 15th October 2012.*

A BILL

*intituled*

An Act to amend the Criminal Procedure Code (Chapter 68 of the 2012 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 Criminal Procedure Code (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### **Amendment of section 107**

2. Section 107 of the Criminal Procedure Code (referred to in this Act as the principal Act) is amended by deleting subsection (2) and substituting the following subsections:

“(2) If his explanation is inadequate and the amount of the bond is not paid, the court may recover the amount by issuing an order for the attachment of any property, movable or immovable, belonging to him —

(a) by seizure of such property which may be sold and the proceeds applied towards the payment of the amount of the bond; or

(b) by appointing a receiver who shall be at liberty to take possession of and sell such property and apply the proceeds towards the payment of the amount of the bond.

(2A) Any person may, not later than 7 days after the date of the seizure of any property under subsection (2)(a) or the taking of possession of any property by the receiver under subsection (2)(b), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (2) and the court shall make such order as it sees fit.”.

### **Amendment of section 247**

3. Section 247(4) of the principal Act is amended by deleting the words “The principal officer” and substituting the words “A designated medical practitioner”.

### **Amendment of section 248**

4. Section 248 of the principal Act is amended —
- (a) by deleting the words “principal officer” in subsections (1), (2) and (4) and substituting in each case the words “designated medical practitioner”; and
  - (b) by deleting the words “principal officer” in the section heading and substituting the words “designated medical practitioner”.

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### **Amendment of section 254**

5. Section 254(1) of the principal Act is amended by deleting the words “a principal officer” and substituting the words “the principal officer”.

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### **Amendment of section 255**

6. Section 255(1) of the principal Act is amended by deleting the words “a principal officer” in paragraph (c) and substituting the words “the principal officer”.

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### **Amendment of section 313**

7. Section 313 of the principal Act is amended by deleting paragraphs (c) to (g) and substituting the following paragraphs:

- “(c) the trial Judge who tried the accused must, within a reasonable time after sentence has been pronounced, prepare a copy of the notes of evidence taken at the trial and a report in writing signed by him stating whether, in his opinion, there is any reason (and, if so, particulars of the reason) why the death sentence should be carried out;
- (d) the trial Judge must forward to the Court of Appeal the notes of evidence and report referred to in paragraph (c), within a reasonable time after being notified by the Registrar of the Supreme Court that a notice of appeal has been given or petition for confirmation has been lodged, as the case may be;

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(e) if the Court of Appeal dismisses the appeal or confirms the imposition of the sentence of death, then the Chief Justice or other presiding Judge must, within a reasonable time, forward to the Minister the notes of evidence and report referred to in paragraph (c), stating whether he agrees with the trial Judge, together with a notification of the decision of the Court of Appeal and also any report on the case that the Court of Appeal may think fit to make, signed by the Chief Justice or other presiding Judge;

(f) the President must, acting in accordance with the Constitution —

(i) transmit to the Court of Appeal a copy signed and sealed by him of any order he makes;

(ii) if the sentence is to be carried out, state the time and place of execution of the sentence in the order; and

(iii) if the person sentenced is pardoned or the sentence is commuted to another punishment, state this in the order;

(g) on receiving the copy of the President's order the Court of Appeal must, if the sentence is to be carried out, cause a warrant to be issued under the seal of the Supreme Court and signed by the Chief Justice or other presiding Judge, or in the absence thereof any other Judge of Appeal or High Court Judge, setting out the time and place of execution as prescribed in the order of the President;".

### **Amendment of section 319**

**8.** Section 319 of the principal Act is amended —

(a) by deleting paragraph (b) of subsection (1) and substituting the following paragraph:

“(b) the court which imposed the fine may choose to do all or any of the following things at any time before the fine is paid in full:

- (i) allow and extend time for its payment;
- (ii) direct that the fine be paid by instalments; 5
- (iii) order the attachment of any property, movable or immovable, belonging to the offender —
  - (A) by seizure of such property which may be sold and the proceeds applied towards the payment of such fine; or 10
  - (B) by appointing a receiver who shall be at liberty to take possession of and sell such property and apply the proceeds towards the payment of such fine; 15
- (iv) direct any person who owes money to the offender to pay the court the amount of that debt due or accruing or the amount that is sufficient to pay off the fine; 20
- (v) direct that in default of payment of the fine, the offender must suffer imprisonment for a certain term which must be consecutive with any other imprisonment to which he may be sentenced, including any other imprisonment term or terms imposed on the offender under this section in default of payment of fine, or to which he may be liable under a commutation of a sentence; 25 30
- (vi) direct that the person be searched, and that any money found on him when so searched or which, in the event of his being committed to prison, may be found 35

on him when taken to prison, shall be applied towards the payment of such fine, and the surplus, if any, being returned to him; provided that the money shall not be so applied if the court is satisfied that the money does not belong to the person on whom it was found;”;

(b) by deleting the words “subsection (1)(b)(iii)(C)” in subsection (2) and substituting the words “subsection (1)(b)(iv)”;

(c) by inserting, immediately after subsection (2), the following subsection:

“(3) Any person may, not later than 7 days after the date of the seizure of any property under subsection (1)(b)(iii)(A) or the taking of possession of any property by the receiver under subsection (1)(b)(iii)(B), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (1)(b)(iii) and the court shall make such order as it sees fit.”.

### **Amendment of section 360**

9. Section 360 of the principal Act is amended —

(a) by deleting paragraph (c) of subsection (1) and substituting the following paragraphs:

“(c) order the attachment of any property, movable or immovable, belonging to the person —

(i) by seizure of such property which may be sold and the proceeds applied towards the payment of that sum; or

(ii) by appointing a receiver who shall be at liberty to take possession of and sell such

property and apply the proceeds towards the payment of that sum;

- (ca) direct any person who owes money to the person ordered to pay compensation to pay the court the amount of that debt due or accruing or the amount that is sufficient to pay off the compensation sum;”;
- (b) by deleting the words “subsection (1)(c)(iii)” in subsection (7) and substituting the words “subsection (1)(ca)”;
- (c) by inserting, immediately after subsection (7), the following subsection:
- “(8) Any person may, not later than 7 days after the date of the seizure of any property under subsection (1)(c)(i) or the taking of possession of any property by the receiver under subsection (1)(c)(ii), as the case may be, make a claim against that property by applying to the court for the property to be excluded from the order of attachment issued under subsection (1)(c) and the court shall make such order as it sees fit.”.

#### **Amendment of section 374**

**10.** Section 374 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

“(4A) No appeal may lie against the conviction of an accused of any offence by a trial court until after the trial court imposes a sentence in relation to that offence.”.

#### **Amendment of section 377**

**11.** Section 377 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) A notice of appeal against any judgment, sentence or order of the trial court must be lodged by the appellant with the Registrar of the Supreme Court (if the trial court is the High

Court) or the Registrar of the Subordinate Courts (if the trial court is a District Court or a Magistrate’s Court) —

(a) in the case of an appeal against conviction, or an appeal against conviction and sentence, within 14 days after the date of the sentence; and

(b) in any other case, within 14 days after the date of the judgment, sentence or order.”.

### **Amendment of section 383**

12. Section 383 of the principal Act is amended by deleting subsection (3) and substituting the following subsection:

“(3) In the case of a conviction involving a sentence of death, the execution of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the accused or a petition for confirmation by the Public Prosecutor.”.

### **New Division 1A of Part XX**

13. Part XX of the principal Act is amended by inserting, immediately after section 394, the following Division:

*“Division 1A — Review of sentence of death  
when no appeal filed*

#### **Public Prosecutor to file petition for confirmation**

394A.—(1) Where the High Court passes a sentence of death on an accused and no appeal is filed by the accused within the time allowed under this Code for an appeal, the Public Prosecutor shall, on the expiry of 90 days after the time allowed under this Code for appeal, lodge a petition for confirmation with the Registrar of the Supreme Court and serve the petition on the accused.

(2) When a petition for confirmation has been lodged, the trial court shall transmit to the Court of Appeal, the Public Prosecutor, and the accused or his advocate, a signed copy of the record of the proceedings and the grounds of decision free of charge.

### **Court of Appeal to review sentence of death**

**394B.** The Court of Appeal shall examine the record of proceedings and the grounds of decision and shall satisfy itself as to the correctness, legality and propriety of —

- (a) the conviction of the accused for the offence for which the sentence of death is imposed; and 5
- (b) the imposition of the sentence of death for the offence, where the sentence of death is not mandatory by law.

### **Powers of Court of Appeal in petition for confirmation**

**394C.** The Court of Appeal may in any proceeding relating to a petition for confirmation exercise such powers as it may exercise in an appeal by the accused. 10

### **Permission for parties to be heard**

**394D.**—(1) No party has the right to be heard either personally or by advocate before the Court of Appeal in any proceeding relating to a petition for confirmation. 15

(2) The Court of Appeal may, if it thinks fit, hear any party either personally or by advocate.

### **Orders on review**

**394E.**—(1) If the Court of Appeal is satisfied as to the correctness, legality and propriety of — 20

- (a) the conviction of the accused for the offence for which the sentence of death is imposed; or
- (b) the imposition of the sentence of death for the offence, where the sentence of death is not mandatory by law, 25

it shall issue a certificate to the Public Prosecutor and the accused or his advocate confirming the imposition of the sentence of death on the accused.

(2) If the Court of Appeal is not satisfied as to the correctness, legality and propriety of — 30

(a) the conviction of the accused for the offence for which the sentence of death is imposed; or

(b) the imposition of the sentence of death for the offence, where the sentence of death is not mandatory by law,

5 it shall set aside the sentence of death, and may make such further order as it deems fit.”.

### **Savings and transitional provisions**

10 **14.** For a period of 2 years after the date of commencement of this Act, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of this Act as he may consider necessary or expedient.

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## **EXPLANATORY STATEMENT**

This Bill seeks to amend the Criminal Procedure Code (Cap. 68) for the following main purposes:

- (a) to allow any person to make a claim against property attached under section 107;
- (b) to provide for a designated medical practitioner to certify whether an accused is of sound mind and capable of making his defence;
- (c) to make amendments to certain procedures under section 313 relating to the execution of sentences of death;
- (d) to allow the court to sell any attached property pursuant to an order of attachment of property made under section 107, 319 or 360;
- (e) to provide that no appeal may lie against the conviction of an accused of any offence until after a sentence is imposed in relation to that offence;
- (f) to provide for a new procedure for the review of the sentence of death when no appeal is filed by an accused within the time allowed under the Code; and
- (g) to provide that in a case of a conviction involving a sentence of death, the execution of the sentence must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the accused or a petition for confirmation by the Public Prosecutor.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 107 to allow a person to make a claim to the court against property attached.

Clause 3 amends section 247 to provide that a designated medical practitioner (and not the principal officer as was the case before the amendment) has to keep an accused under observation and provide any necessary treatment during the accused's remand.

Clause 4 amends section 248 to provide for a designated medical practitioner (and not the principal officer as was the case before the amendment) to certify whether an accused is of sound mind and capable of making his defence.

Clause 5 makes a technical amendment to section 254.

Clause 6 makes a technical amendment to section 255.

Clause 7 amends section 313 to provide a new procedure relating to the execution of sentences of death.

Clause 8 amends section 319 (which relates to provisions as to sentence of fine) to allow the court to sell any attached property pursuant to an order of attachment of property made under the section. The clause further allows a person to make a claim against property attached under the section.

Clause 9 amends section 360 (which relates to provisions as to money payable as compensation) to allow the court to sell any attached property pursuant to an order of attachment of property made under the section. The clause further allows a person to make a claim against property attached under the section.

Clause 10 amends section 374 to provide that no appeal may lie against the conviction of an accused of any offence by a trial court until after the trial court imposes a sentence in relation to that offence.

Clause 11 amends section 377 to provide for the timelines within which a notice of appeal must be lodged.

Clause 12 amends section 383 to provide that in the case of a conviction involving a sentence of death, the execution of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the accused or a petition for confirmation by the Public Prosecutor.

Clause 13 inserts a new Division 1A to Part XX. The new Division 1A relates to the review of the sentence of death when no appeal is filed.

Clause 14 empowers the Minister to make regulations of a savings or transitional nature consequent on the enactment of the Act as he may consider necessary or expedient.

EXPENDITURE OF PUBLIC MONEY

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

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