

PREVENTION OF HUMAN TRAFFICKING ACT 2014

(No. 45 of 2014)

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An Act to deter and punish trafficking in persons and to protect and assist trafficked persons, and to make consequential amendments to the Children and Young Persons Act (Chapter 38 of the 2001 Revised Edition).

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

PART 1
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Prevention of Human Trafficking Act 2014 and shall come into operation on such date as the Minister charged with the responsibility for home affairs may, by notification in the *Gazette*, appoint.

Interpretation

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

“abduct”, in relation to an individual, means to compel by force, or induce by any deceitful means, the individual to go from any place;

“abuse of the position of vulnerability”, in relation to an individual, means taking advantage of the vulnerable position the individual is placed in as a result of —

- (a) the individual entering or remaining in Singapore illegally;
- (b) the individual’s pregnancy;
- (c) the individual’s physical or mental illness, infirmity or disability; or
- (d) the impairment (permanently or temporarily) of the individual’s decision-making ability by reason of the individual’s physical or mental illness, infirmity or disability;

“child” means an individual below the age of 18 years;

“coercion”, in relation to an individual, means the use of force or threat, whether violent or otherwise, against the individual or another individual, including —

- (a) any threat of harm to or physical restraint of the individual or the other individual;
- (b) any scheme, plan or pattern intended to cause the individual to believe that the failure to perform an act

would result in serious harm to or physical restraint of the individual or the other individual; or

- (c) any abuse or threat related to the legal status of the individual or the other individual;

“conjugal partner”, in relation to a trafficked victim at a given point in time, means the individual with whom the trafficked victim was in a relationship as if the individual were the trafficked victim’s spouse at that point in time;

“debt bondage” means a status or condition arising from —

- (a) the pledging by a debtor of the personal services of the debtor or an individual under the debtor’s control, as security for a debt; and
- (b) the reasonable value of such services not being applied towards the discharge of the debt, or the length or nature of such services not being limited or defined, respectively;

“document” has the same meaning as in section 29 of the Penal Code (Cap. 224);

“exploitation” means sexual exploitation, forced labour, slavery or any practice similar to slavery, servitude or the removal of an organ;

“Minister” means the Minister charged with the responsibility for home affairs;

“practice similar to slavery” includes debt bondage, serfdom or any servile form of marriage;

“premises” includes —

- (a) any building or structure, whether permanent or temporary;
- (b) any land, whether built on or not;
- (c) any place, whether open or enclosed, including any place situated underground or underwater;
- (d) any vehicle, train, vessel or aircraft; and

(e) any part of the premises;

“prostitution” means the offering of an individual’s body for hire, whether for money or in kind, for the purpose of sexual penetration;

“public servant” has the same meaning as in section 21 of the Penal Code, and includes any person who is deemed under this Act or any other written law to be a public servant for the purposes of the Penal Code;

“serfdom” means the condition or status of a tenant who is, by law, custom or agreement, bound to live and labour on land belonging to another person and to render any determinate service to that other person, whether for reward or not, and is not free to change that condition or status;

“servile form of marriage” means any institution or practice in which —

(a) a woman or female child, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parent, guardian, family or any other person or group of persons;

(b) the husband of a woman or female child, or his family or clan, has the right to transfer her to another person, whether for value received or otherwise; or

(c) a woman or female child on the death of her husband is liable to be inherited by another person;

“servitude”, in relation to an individual, means any condition or obligation, not authorised by any written law, to work or render services from which the individual cannot escape or which the individual is not free to change;

“sexual exploitation”, in relation to an individual, means the involving of the individual in prostitution, sexual servitude or the provision of any other form of sexual service, including the commission of any obscene or indecent act by the

individual or the use of the individual in any audio or visual recording or representation of such act;

“trafficked victim” means an individual against whom an offence under section 3 is committed, and includes an alleged victim of the offence.

PART 2

TRAFFICKING IN PERSONS

Trafficking in persons

3.—(1) Any person who recruits, transports, transfers, harbours or receives an individual (other than a child) by means of —

- (a) the threat or use of force, or any other form of coercion;
- (b) abduction;
- (c) fraud or deception;
- (d) the abuse of power;
- (e) the abuse of the position of vulnerability of the individual; or
- (f) the giving to, or the receipt by, another person having control over that individual of any money or other benefit to secure that other person’s consent,

for the purpose of the exploitation (whether in Singapore or elsewhere) of the individual shall be guilty of an offence.

(2) Any person who recruits, transports, transfers, harbours or receives a child for the purpose of the exploitation (whether in Singapore or elsewhere) of the child shall be guilty of an offence.

(3) In determining whether an offence has been committed under this section, the following shall be irrelevant:

- (a) in the case where the alleged victim of the offence is a child, whether the child, or the child’s parent or guardian, consented to the actual or intended exploitation;
- (b) in any other case, whether the alleged victim of the offence consented to the actual or intended exploitation.

(4) For the purposes of subsection (1) or (2), it does not matter whether the act of trafficking in persons described in that subsection is done partly in and partly outside Singapore provided that the act, if done wholly in Singapore, would constitute an offence under that subsection.

Punishment for trafficking in persons

4.—(1) Any person who is guilty of an offence under section 3, upon conviction —

- (a) in the case of a first offence, shall be punished with a fine not exceeding \$100,000 and with imprisonment for a term not exceeding 10 years, and shall be liable to caning not exceeding 6 strokes; and
- (b) in the case of a second or subsequent offence, shall be punished with a fine not exceeding \$150,000, with imprisonment for a term not exceeding 15 years and with caning not exceeding 9 strokes.

(2) In determining the appropriate sentence for an offence under section 3, the court may take into account the aggravating factors relevant to the offence including the following:

- (a) the offence involved serious injury to or the death (including death by suicide) of the trafficked victim or another individual;
- (b) the trafficked victim was particularly vulnerable due to pregnancy, illness, infirmity, disability or any other reason, and the offender was aware of the trafficked victim's particular vulnerability;
- (c) the trafficked victim was a child;
- (d) the offence exposed the trafficked victim to a life-threatening illness;
- (e) the offence involved actual or threatened use of a weapon or drug;
- (f) the offender was a public servant;

- (g) the offender was the trafficked victim's spouse or conjugal partner;
- (h) the offender was abusing a position of trust or authority in relation to the trafficked victim.

Abetment of trafficking in persons

5.—(1) For the purposes of Chapter V of the Penal Code (Cap. 224), a person abets the commission of an offence under section 3 if —

- (a) the person gives instruction to another person to commit the offence;
- (b) the person provides or arranges any form of financing, transport, shelter, accommodation or any other facility with the intention of facilitating the commission of the offence; or
- (c) the person —
 - (i) participates or assists in the recruitment, transport, transfer, harbouring or receiving of an individual;
 - (ii) employs or assists in the employment of any of the means specified in section 3(1)(a) to (f) in respect of the individual; or
 - (iii) does any act to promote or in furtherance of the actual or intended exploitation of the individual,with the intention of facilitating the commission of the offence against the individual.

(2) To avoid doubt, this section is without prejudice to the generality of the term “abetment” under the Penal Code.

Persons who receive payments in connection with exploitation of trafficked victims

6.—(1) Any person who knowingly receives any payment in connection with the actual or intended exploitation in Singapore of a trafficked victim shall be guilty of an offence.

(2) Any person who is guilty of an offence under subsection (1), upon conviction —

- (a) in the case of a first offence, shall be punished with a fine not exceeding \$100,000 and with imprisonment for a term not exceeding 10 years, and shall be liable to caning not exceeding 6 strokes; and
- (b) in the case of a second or subsequent offence, shall be punished with a fine not exceeding \$150,000, with imprisonment for a term not exceeding 15 years and with caning not exceeding 9 strokes.

PART 3

ENFORCEMENT

Police officers and enforcement officers

7.—(1) Nothing in this Part affects a police officer's powers or duties under the Criminal Procedure Code (Cap. 68).

(2) Only the following officers are authorised to act as an enforcement officer under this Part:

- (a) public officers appointed as employment inspectors under section 3(2) of the Employment of Foreign Manpower Act (Cap. 91A);
- (b) public officers appointed as inspectors under section 15F(1) of the Human Organ Transplant Act (Cap. 131A);
- (c) public officers appointed by the Minister as enforcement officers for the purposes of this Act.

Enforcement powers

8.—(1) A police officer or an enforcement officer may, for the purposes of this Act, do all or any of the following:

- (a) without warrant, enter and search, by day or night, any premises if there is reasonable cause to believe that evidence of the commission of an offence under this Act can be found in the premises;
- (b) detain any person found within the premises referred to in paragraph (a) until the search of the premises is completed;

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- (c) search any person found within the premises referred to in paragraph (a) who is reasonably believed to have any document or article relevant to any investigation into an offence under this Act;
 - (d) require any person who is reasonably believed to have any document (including any document of identity or travel document), article, or information relevant to any investigation into an offence under this Act, to produce such document or article or give such information;
 - (e) take possession of, or any extract from or copy of, any document or article relevant to any investigation into an offence under this Act which is found in any premises or on any person searched, or is produced, under this section;
 - (f) examine orally any person who appears to be acquainted with any of the facts or circumstances of a suspected offence under this Act, and reduce into writing the answer given or statement made by that person who shall be bound to state truly the facts and circumstances with which that person is acquainted; and the statement made by that person must be read over to that person and must, after correction, be signed by that person;
 - (g) require by order in writing the attendance before the officer of any person, being within the limits of Singapore, who, from information given or otherwise, appears to be acquainted with any of the facts or circumstances of a suspected offence under this Act; and that person must attend as required and if that person fails to do so, report such failure to a Magistrate who may then issue a warrant to secure the attendance of that person as required by the order;
 - (h) take such photographs, or audio or video recordings, as necessary of the premises referred to in paragraph (a) (including any person or thing in the premises) and persons reasonably believed to be acquainted with the facts or circumstances relevant to a suspected offence under this Act;

- (i) require an employer to produce all or any of the employer's employees for the purposes of any investigation into an offence under this Act.

(2) A police officer or an enforcement officer may require the owner or occupier of any premises referred to in subsection (1)(a), the owner's or occupier's agent or any person found in the premises to furnish such means required by the officer as necessary for the officer's exercise of any power under this section.

(3) If entry to any premises cannot be obtained under subsection (1)(a), a police officer or an enforcement officer may, after stating the officer's authority and purpose and demanding entry into the premises —

- (a) break open any outer or inner door or window leading to the premises;
- (b) forcibly enter the premises; or
- (c) remove by force any obstruction to such entry.

(4) Any person who —

- (a) intentionally offers any resistance to or wilfully delays a police officer or an enforcement officer in the exercise of any power under this section;
- (b) fails to comply with the requisition of a police officer or an enforcement officer under this section;
- (c) fails to produce to a police officer or an enforcement officer any document or article which the person is required under this section to produce;
- (d) wilfully withholds from a police officer or an enforcement officer any information as to who is the owner or occupier of any premises, who is the principal contractor or who is the employer of the person; or

(e) conceals or prevents, or attempts to conceal or prevent, another person from appearing before or being examined by a police officer or an enforcement officer under this section, shall be deemed to wilfully obstruct the police officer or enforcement officer for the purpose of section 17.

(5) In this section, a reference to an offence under this Act includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

Power to arrest without warrant

9.—(1) Any police officer or enforcement officer may arrest without warrant any person whom the officer reasonably suspects is committing or has committed an offence under Part 2.

(2) A police officer or an enforcement officer making an arrest without warrant must, without unnecessary delay and subject to subsection (4), take or send the person arrested before a Magistrate's Court.

(3) No police officer or enforcement officer must detain in custody a person arrested without warrant for longer than is reasonable in the circumstances, and such period must not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(4) Any person who has been arrested may be released on bail, or on the person's own bond, by a police officer or an enforcement officer.

(5) The provisions of Division 5 of Part VI of the Criminal Procedure Code (Cap. 68) apply to any bail or bond granted under this section; and for this purpose, any reference to "officer", "police officer" or "police officer of or above the rank of sergeant" in those provisions is to be read to include an enforcement officer.

(6) In this section, a reference to an offence under Part 2 includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

Arrest how made

10.—(1) A police officer or an enforcement officer making an arrest under this Part must touch or confine the body of the person to be arrested unless the person submits to arrest by word or action.

(2) If the person forcibly resists or tries to evade arrest, the officer may use all means necessary to effect the arrest.

No unnecessary restraint

11.—(1) A person who is arrested under this Part must not be subjected to more restraint than is necessary to prevent the person's escape.

(2) Handcuffs or any similar means of restraint may be used on the person arrested to prevent the person from —

- (a) inflicting any bodily self-injury or injury to others;
- (b) damaging any property;
- (c) creating any disturbance; or
- (d) escaping from custody.

(3) The handcuffs or means of restraint must not be used on the person arrested for the purpose of punishment.

Search of persons

12.—(1) A police officer or an enforcement officer making an arrest under this Part may search the person arrested and take possession of any document or article found on the person which the officer reasonably believes to be connected to the offence for which the person is arrested.

(2) Where a person is searched under this section or section 8(1)(c) —

- (a) the search must be made by a police officer or an enforcement officer of the same sex as the person, with strict regard to decency; and
- (b) the police officer or enforcement officer must not take into possession the person's necessary wearing apparel.

Power to seize offensive weapons

13. A police officer or an enforcement officer making any arrest under this Part may take from the person arrested any offensive weapons found on the person.

Power on escape to pursue and arrest

14. If a person arrested under this Part escapes or is rescued from lawful custody, the police officer or enforcement officer from whose custody that person escaped or was rescued may immediately pursue and arrest that person in any place within Singapore and deal with that person as the officer might have done on the original arrest.

Enforcement officers to be armed

15. Every enforcement officer must be provided with such batons and accoutrements as may be necessary for the effective discharge of the enforcement officer's duties.

Disposal of documents and articles

16.—(1) Any document or article that a police officer or an enforcement officer takes possession of under this Part must —

(a) where the document or article is produced in any criminal trial, be dealt with in accordance with section 364 of the Criminal Procedure Code (Cap. 68); and

(b) in any other case —

(i) be returned to the owner; or

(ii) if the owner is not known, be reported to a Magistrate.

(2) Where the report of any document or article is made to a Magistrate under subsection (1)(b)(ii), the Magistrate may order the document or article —

(a) to be forfeited; or

(b) to be disposed of in such manner as the Magistrate thinks fit.

(3) Nothing in this section shall be taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.

Obstruction of police officer or enforcement officer

17. Any person who wilfully obstructs the lawful exercise by a police officer or an enforcement officer of any of the officer's powers under this Part 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.

PART 4**VICTIM PROTECTION AND ASSISTANCE****Protection of sexually exploited trafficked victims**

18.—(1) Where any person is charged with or convicted of an offence under Part 2 involving the sexual exploitation of a trafficked victim, the court hearing any matter or proceedings in relation to the charge or conviction —

- (a) in the case where the trafficked victim is a child, shall hear the matter or proceedings in camera; and
- (b) in any other case, may order that the matter or proceedings (or any part of it) be heard in camera.

(2) No person shall, in connection with any matter or proceedings referred to in subsection (1) —

- (a) publish the name, address or photograph, or any other thing which is likely to lead to the identification, of the trafficked victim;
- (b) publish the name, address or photograph of any witness, or any evidence given by the witness, in the matter or proceedings, or any other thing relating to the witness, which is likely to lead to the identification of the trafficked victim; or
- (c) do any other act which is likely to lead to the identification of the trafficked victim.

(3) The prohibition under subsection (2) applies regardless of whether the matter or proceedings is required or ordered to be heard in camera under subsection (1).

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both.

(5) Nothing in this section affects a court's powers under section 7 of the State Courts Act (Cap. 321) or section 8 of the Supreme Court of Judicature Act (Cap. 322).

(6) In this section, a reference to an offence under Part 2 includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

Assistance to trafficked victims

19.—(1) The Director of Social Welfare appointed under section 3(1) of the Children and Young Persons Act (Cap. 38) may provide to a trafficked victim such assistance as the Director considers practicable and necessary in the particular circumstances of the case, including —

(a) temporary shelter; and

(b) counselling services.

(2) The Director of Social Welfare may —

(a) appoint any public officer; or

(b) with the approval of the Minister charged with the responsibility for social support services, authorise in writing any other person,

to perform the Director's function under subsection (1), subject to such conditions and limitations as the Director may specify.

(3) To avoid doubt, any appointment or authorisation under subsection (2) does not restrict or prevent the Director of Social Welfare from exercising the function under subsection (1).

(4) Any person authorised under subsection (2)(b) is deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

PART 5
MISCELLANEOUS

False statements, information, etc.

20. Any person who, being required to make any statement or furnish any information or document under this Act —

- (a) makes any statement or furnishes any information or document which is false or misleading in a material particular; and
- (b) knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

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.

Protection of informers

21.—(1) Except as provided in this section, no complaint as to an offence under Part 2 is to be admitted in evidence in any civil or criminal proceedings, and no witness in the proceedings is to be obliged or permitted to disclose the name or address of any informer in respect of the offence, or state any matter which might lead to the discovery of the informer.

(2) If any article or document which is in evidence or liable to inspection in the civil or criminal proceedings contains any thing that names or describes the informer or is likely to lead to the discovery of the informer, the court hearing the proceedings shall cause that thing to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) A court may order the production of a complaint, or require or permit the full disclosure concerning an informer, in respect of an offence under Part 2, if —

- (a) in any proceedings for the offence, the court, after full inquiry into the case, is of the opinion that the informer wilfully made a material statement which the informer 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 in the proceedings without the discovery of the informer.

(4) In this section, a reference to an offence under Part 2 includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

Consent of Public Prosecutor

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

Jurisdiction of Court

23.—(1) 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 the power to impose the full penalty or punishment in respect of the offence.

(2) In this section, a reference to an offence under this Act includes a reference to an abetment of, or a conspiracy or an attempt to commit, the offence.

Rules

24. The Minister may make rules for carrying out the purposes and provisions of this Act.

Consequential amendments to Children and Young Persons Act

25. Section 16 of the Children and Young Persons Act (Cap. 38) is amended —

- (a) by deleting the word “or” at the end of paragraph (b); and
- (b) by deleting the comma at the end of paragraph (c) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(d) is a trafficked victim, as defined in section 2 of the Prevention of Human Trafficking Act 2014,”.