

Civil Law (Amendment) Bill

Bill No. 25/2012.

Read the first time on 10th September 2012.

A BILL

intituled

An Act to amend the Civil Law Act (Chapter 43 of the 1999 Revised Edition) and to make related amendments to the Public Trustee Act (Chapter 260 of the 1985 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 Civil Law (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Repeal and re-enactment of section 27

2. Section 27 of the Civil Law Act is repealed and the following section substituted therefor:

“Bona vacantia, etc.

27.—(1) This section applies —

- 10 (a) where a right to the estate of any person who dies (whether before, on or after the date of commencement of section 2 of the Civil Law (Amendment) Act 2012) intestate without next-of-kin has accrued to the Government; or
- 15 (b) where a right to the property of any person who dies (whether before, on or after the date of commencement of section 2 of the Civil Law (Amendment) Act 2012) has accrued to the Government as a result of disposal under such written law as the Minister may, by order
- 20 published in the *Gazette*, prescribe for the purposes of this section.

(2) Where a right to any estate or property upon the death of a person as mentioned in subsection (1) has accrued to the Government, such estate, property or part thereof that is not land, or where such estate or property or part thereof is land and that land is sold, its proceeds, shall form part of the Consolidated Fund.

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(3) If it appears to the Minister that a right to any estate or property upon the death of a person as mentioned in subsection (1) has accrued to the Government, it shall be lawful for the Minister, upon application being made to him or if he considers it reasonable to do so, by warrant under his hand —

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- (a) to disclaim and release in whole or in part that right to such estate or property in favour of such person or

persons who establish to the satisfaction of the Minister any equitable or moral claim thereto; and

- (b) to authorise or order the giving, conveyance, transfer, grant or payment, out of the whole or any part of such estate or property or (if sold) its proceeds, in such share, proportion and manner and upon such terms and conditions as the Minister thinks appropriate (whether or not including the payment of moneys) to that person or those persons, as the case may be.

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(4) Upon a right of the Government being disclaimed and released by warrant under subsection (3), the following provisions shall apply:

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- (a) any moneys specified in any such warrant shall, if forming part of the Consolidated Fund, be charged on and paid out of the Consolidated Fund without further authority other than this section;

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- (b) any other movable property specified in the warrant that is the subject of the disclaimer and release shall vest, by virtue of that warrant and without any conveyance, assignment or further assurance, in the person or persons in favour of whom the disclaimer and release is made in such share, proportion and manner as are specified in the warrant; and

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- (c) any warrant ordering the grant or lease of any State land or interest therein shall have the effect of authorising a grant or lease of the land under the State Lands Act (Cap. 314) to the person or persons in favour of whom the disclaimer and release is made in such share, proportion and manner as are specified in the warrant.

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(5) For the avoidance of doubt, a disclaimer and release by warrant under subsection (3) may be made without actual entry into or taking of possession of the estate or property in question being first made by the Government.

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(6) Nothing in this section shall affect the disposal of any property according to Muslim law.”.

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Related amendments to Public Trustee Act

3. Section 4 of the Public Trustee Act (Cap. 260) is amended —
- (a) by deleting the words “of small value” in subsection (1)(a);
 - (b) by deleting the word “and” at the end of subsection (1A)(b);
and
 - (c) by deleting the full-stop at the end of paragraph (c) of subsection (1A) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:
 - “(d) undertake such functions and duties relating to bona vacantia arising from the death of natural persons as the Minister may assign to him.”.

EXPLANATORY STATEMENT

This Bill seeks to clarify and expand the scope of section 27 of the Civil Law Act (Cap. 43), and to make related amendments to the Public Trustee Act (Cap. 260) to allow the Public Trustee to assist in some matters relating to otherwise ownerless property that accrues to the Government (bona vacantia) upon the death of individuals.

Clause 1 relates to the short title and commencement.

Clause 2 repeals and re-enacts section 27 of the Civil Law Act (which allows the Minister to transfer bona vacantia property on the basis of equitable or moral claims) —

- (a) to make clear that the section also covers land that the Government may become entitled to upon the death of an individual;
- (b) to empower the Minister to bring within the scope of the section, property that may accrue to the Government (as bona vacantia) as a result of distribution in accordance with certain written laws which deem the property as not part of the estate of a person. The Minister can prescribe what these laws are by an order published in the *Gazette*. An example of such a law is the Central Provident Fund Act (Cap. 36) under which property that would otherwise form part of the estate of a person are deemed not to so as to protect the property from creditors; and
- (c) to clarify and refine the process by which the Minister may disclaim and release the Government’s right to estate or property that has accrued to the

Government bona vacantia in favour of persons who establish an equitable or moral claim thereto. The Minister may by warrant provide for such persons out of the whole or any part of the estate or property or (if sold) its proceeds devolving upon the Government. The warrant may also authorise or order the giving, conveyance, transfer, grant or payment in such share, proportion and manner and upon such terms and conditions as the Minister thinks appropriate (including the payment of moneys).

Clause 3 amends section 4 of the Public Trustee Act to allow the Minister to assign functions and duties to the Public Trustee in relation to bona vacantia, which may include the administration of estates with property that may be claimed as bona vacantia.

EXPENDITURE OF PUBLIC MONEY

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