

SPEECH BY A/P HO PENG KEE, SENIOR MINISTER OF STATE FOR LAW AND HOME AFFAIRS, AT PARLIAMENT SPEECH, 12 JANUARY 2010, 5:19 PM AT PARLIAMENT

Mr Speaker, Sir, I beg to move, "That the Bill be now read a second time."

Introduction

2 Sir, last year in August, I informed this House that MHA was studying how to tackle the loanshark scourge more effectively. Setting out the various measures already in place, I said that we would tighten our laws to plug the gaps. This Bill is the result of our review. A key focus is to introduce powers that will disrupt the finances that sustain loanshark operations, hitting, in particular, loansharks in the higher echelons of the syndicates where it matters most. It also introduces new measures to strengthen the existing legal regime. These include enhancing existing penalties and specifically criminalising acts that contribute to or advance loanshark activities in Singapore. Our law's reach will also be extended beyond our borders.

3 First, let me set the problem in its proper context; which is that the loanshark scourge is not unique to Singapore. Indeed, it is a problem other countries face as well. In fact, loansharking is entrenched in countries such as Malaysia, Hong Kong and the UK where the authorities, like us in Singapore, face stiff challenges in trying to eradicate them. How loanshark syndicates have evolved in other jurisdictions, including their use of violence and their cross-participation in other organized criminal activities like drug trafficking, has convinced us that we must take tough actions to deal with this scourge before it grows to become a greater threat to our citizens' safety.

Loansharking And Related Harassment Reports Continue To Rise

4 Measures proposed in this Bill will considerably strengthen the matrix of measures that MHA has progressively introduced since 2005. These include increasing penalties and cancelling passports. We also invoked the Criminal Law (Temporary Provisions) Act to detain loansharks against whom witnesses were afraid to come forward to openly testify. Despite these measures, loanshark activities persist. Except for a respite in 2007 when the number of loanshark and harassment cases dropped slightly, the number of reports has continued to rise, with 11,879 cases reported in 2008 and 18,645 cases reported last year.

5 On its part, Police's response has been emphatic and clear. The Criminal Investigation Department consolidated loansharking investigations island-wide under an Anti-Unlicensed Moneylending Taskforce in 2005 and reconstituted itself in 2008 into Specialised Crime Investigation Branches. Today, the CID works with designated teams in the Police land divisions to mount ground operations, whilst also conducting intelligence-led operations on its own. More CCTVs have been installed. Following my call last August for strong community action, the community responded very positively

by forming Citizens-on-Patrol Teams and Neighbourhood Watch Groups. Civil-minded individuals including alert taxi drivers, ATM users and even newspapers deliverymen chipped in. The efforts of these grassroots leaders, watchful neighbours and active citizens led to the arrests of a number of runners and harassers. The Straits Times reported in August last year that more than 180 Neighbourhood Watch Groups have been operating as Police's "eyes and ears" on the ground.

6 This community-Police collaboration has borne fruits. With the ground and Police working in tandem, the number of loanshark and harassment cases on a quarter-to-quarter basis actually fell from 5,287 cases for the period April to June last year to 4,377 and 4,845 cases for the last two quarters respectively. The number of arrests rose from 390 in 2007 to 505 in 2008 to 958 last year. Compared to the 9 syndicates busted in 2008, Police took down 13 syndicates last year. The syndicates busted were believed to be responsible for at least 3,800 harassment reports

7 Why are there more harassment reports? A key reason is that loansharks now increasingly target innocent neighboring households by splashing paint on their doors or on their cars in multi-storey carparks, hoping that peer pressure would force the borrowers to pay up. Indeed, in some instances, knowing that innocent parties are frustrated, loansharks demand that they pay up on behalf of the actual debtors! These acts, though generally non-confrontational in nature and non-life threatening, nevertheless disrupt the community's sense of safety and well-being. Having said this, Police is closely monitoring the dangerous tactics employed by some loansharks of locking people up in their homes or setting on fire items found outside their homes. If caught, these harassers will be punished with the full brunt of the law.

8 Our HDB estates are open and compact. They are particularly susceptible to the indiscriminate harassment gangsterism shown by loanshark syndicates. The large majority of harassment cases occur in our HDB heartlands where home-owners live in close proximity. Sometimes, even those living a level above or below the actual borrower's unit, are hit. Although less than 1% of HDB households are harassed, every innocent household harassed is one too many.

Loansharks Are Organised Criminal Groups

9 In August, I said that we needed to shift our paradigm as to how we view loanshark syndicates, that is, from unscrupulous moneylenders charging exorbitant interest rates to them being a pernicious form of organised crime. Criminal acts perpetrated by organised criminal groups are a threat to society as they are tougher to eradicate and can create greater community impact.

10 Let me share some insights into how loanshark syndicates operate in Singapore. Today, technology gives us access to a global network of information and services. People are easily hooked up via social networking sites such as Facebook and Twitter. Whilst connectivity through IT has many positive features, the flipside is that it enables criminal elements to perpetrate their crimes under the shroud of anonymity. Advances in

communications technology and the ways money can be transferred have led to loansharking syndicates and their operations becoming more extensive and sophisticated. Loansharking syndicates now exhibit characteristics of organised criminal groups and thrive on the profitability of the illicit business. These syndicates may either be one-person operations or, what is more likely, operations with multiple layers, typically with a “Towkay” or “Financier” who provides the capital, “Ah Longs” who operate the “stalls” which issue loans, typically through electronic banking transactions, and runners who commit acts of harassment and conduct other ground operations.

11 Loansharks have taken to outsourcing their “business functions” to debtors or youths, who appear easy targets for recruitment. These operatives carry out functions ranging from assisting the loansharks in the collection of money, to effecting transfers of money electronically, to carrying out acts of harassment. They add to the layers surrounding the loanshark syndicate, shielding the leaders from direct exposure. Members are also fearful to testify against the Ah Longs and Towkays for fear of reprisal to themselves and their families. Business continuity is high as, characteristically, the syndicates’ structure enables them to elude Police enforcement, replace lower rung members, reorganise their resources, and perpetuate their criminal activities.

12 Loansharks also constantly evolve their modus operandi to elude detection and apprehension. For example, some leaders leverage on technology to direct their syndicates’ operations from overseas, making investigation and arrests even more difficult. With online tools becoming more sophisticated, we are likely to see a corresponding increase in the complexity and repertoire of technological options employed by these criminals. By their nature, loanshark harassment cases are not easy to solve. Unless the perpetrators are caught in the act, there are often few leads that Police can follow-up on. This is especially so in situations involving innocent victims of harassment who have no idea who the loansharks are.

13 As loanshark syndicates evolve their modus operandi to take on more characteristics of organised criminal groups, it is no longer sufficient to deal with loansharking as discrete acts of runners and harassers. We need measures that can cripple them, that is, disgorge them of their ill-gotten gains, choke the supply of funds and availability of foot soldiers, target the irresponsible borrowers and take loansharks out of the system for as long as we need to. Thus, this Bill allows us to deal with loanshark syndicates as criminal organisations, extend beyond the frontline to target financiers and masterminds, disrupt the flow of money and resources and ensure that syndicate leaders do not escape the bite of our laws by directing local operatives from the haven of other countries. To cripple the many layers of a loanshark syndicate, anyone who contributes to or facilitates a loansharking operation will attract the wrath of the law.

Wider Enforcement Powers

Targeting the finances

14 The loanshark scourge persists because loansharks enjoy good profits. They charge exorbitant interest rates and recycle their ill gotten gains to fund more loans, thereby accruing even more profits. It is a vicious cycle. Besides arresting those higher up in the echelon, a key to effectively crippling the syndicates is to disrupt the criminal proceeds and the flow of money and resources that fund the illegal activities.

Framework to Freeze Proceeds of Loansharking Activities

15 Some syndicate leaders are dealt with under the Criminal Law (Temporary Provisions) Act (CLTPA). Whilst we can invoke the CLTPA to detain them, we currently do not have the power to deal with their assets in the absence of a court conviction. These are cases where witnesses are unwilling to give evidence in open court, either out of fear of reprisal or out of misguided loyalty.

16 Hence, this Bill introduces a freezing framework specifically for loansharks dealt with under the CLTPA regime. Freezing their assets will hurt them where it matters most and disrupt the criminal proceeds that may otherwise continue to be circulated for loansharking purposes. Under this framework, the Minister is empowered to make an order to freeze a particular property or account held by any person when he has reasonable cause to believe that the property or any funds in the account are proceeds of the loansharking business associated with the detained loanshark. Such a freezing order is applicable to proceeds of loansharking in the form of cash, shares, bank accounts as well as physical assets such as houses and vehicles.

17 The Minister may vary or revoke the order any time. It is an offence for a person to deal with any property specified under an order unless he does so under the authority of a licence granted by the Minister. Contravening or circumventing the order will be an offence. The order will be revoked when the loanshark is no longer detained but will continue if he is put under police supervision upon release. Persons affected by the order can apply to the High Court to set aside the order.

18 So as not to cause undue hardship to affected families, the framework provides a licensing procedure to enable certain acts to be exempted from the prohibition to deal with the frozen property. For example, the licence can permit family members access to the frozen account. Conditions that may be imposed include requiring the person so licensed to account for the use of the funds or specify the amount to be released from the frozen account for use. The licence may be general or granted to a category of persons or to a particular person. The Minister can vary or revoke a licence any time. Failure to comply with any condition in the licence is an offence.

Powers to inspect bank documents and tax information

19 The Public Prosecutor will be empowered to require the Comptroller of Income Tax to furnish or produce information and documents available to the Comptroller relating to the affairs of a person, including the spouse, son or daughter, during investigations or proceedings against him for loansharking or related harassment

activities. The PP will also be empowered to issue an order authorising the Police to inspect documents at a bank or finance company containing information of suspected loansharks as well as their spouses, sons, daughters, trustees and agents. With wider access to these records, investigators will be better able to follow the money trail and glean insights into a syndicate's network and the identity of its key members. These new powers will help unravel the syndicate network, and in the process, help secure evidence to implicate the financiers who operate behind the scene.

Strengthening the Legal Regime – New Offences and Tougher Penalties

Criminalising Acts that Contribute to Loansharking Activities

20 Anyone who participates in loansharking operations contributes to the existence and continuity of loansharking activities. Every perpetrator, in supporting the organisation, perpetuates its illegal activities. In essence, when a person assists or facilitates a loansharking operation, he becomes part of the many layers shielding the masterminds, allowing them to go undetected. More importantly, when he replaces a person who has been arrested, his doing so enables a loanshark syndicate to reorganise its resources and continue to thrive.

21 In order to target the many layers forming the organisation, anyone who contributes to or facilitates a loansharking operation, no matter what his role is, will not escape the wrath of the law. This will help us disrupt the syndicates. The Bill therefore amends existing Section 14 (Unlicensed Moneylending) and Section 28 (Harassing borrowers besetting his residence etc.) to treat certain acts as assistance of unlicensed moneylending and abetment of the harassment offence, respectively. These acts include selling pre-paid SIM cards to loansharks, transporting runners to harassment targets, acting as a lookout for harassment runs and assisting the loansharks in verifying harassment jobs before paying the runners. A 27-year old ex-runner said that he was paid \$10 for every address that he verified that harassment had been conducted. Sir, these acts are specifically chosen as they reflect the current modus operandi adopted in loanshark harassments. Persons carrying out these acts are deemed to have assisted or abetted loansharking offences and will be liable to the same penalties.

22 Over the past 3 to 4 years, loansharks have been recruiting youths in their nefarious activities. Indeed, their numbers have increased. Last year, 154 youths aged 19 years and below were arrested for loanshark and related harassment activities, compared to 63 youths arrested in 2008. Almost half of those arrested were students. In June last year, Police arrested 9 loansharks runners, the youngest of whom was only 12 years old. The exploitation of youths in the mistaken belief that if caught, they would either get away with it or face very minor penalties was earlier of great concern. But now the message is very clear as tough punishments have been meted out even to youths. To address the phenomenon of loansharks using youths to carry out loansharking or related harassment activities, the act of an adult causing or procuring a youth below 16 years of age to conduct such criminal activities will be made a specific offence under the Moneylenders Act. The adult instigator will be punished with imprisonment for up to 9

years and a fine and is also liable to 12 strokes of the cane if the youth carried out the loansharking or related harassment activities.

Tougher Penalties

23 It does not appear that syndicate members and their runners are deterred by the current penalties. Hence, we will enhance our punishments to send a strong message of zero tolerance for all loansharking activities. Mandatory imprisonment will be introduced for first time offenders who carry out or instigate harassment activities. Where the harasser does not cause any physical hurt or damage, caning will be introduced as an additional option to punish first time offenders. In cases where hurt to persons or damage to property is caused, caning will no longer be an option, but a mandatory punishment, for first time offenders. Loansharks who are first time offenders will be punished with a fine and an imprisonment term which are now made mandatory, as well as caning as an additional sentencing option. Repeat offenders will be subjected to even tougher penalties. These enhanced penalties aim to deter those who are tempted by the profitability of loansharking businesses and hopefully also make youths and debtors think twice before succumbing to the easy way out offered by loansharks. This deterrent message forms an integral part of the overall solution in tackling the loanshark scourge.

Immunity for Accused Persons who Assist the Authorities

24 Persons who participate in organised criminal activities typically adhere to a code of silence. When arrested, many refuse to cooperate with the Police, preferring to quietly go to jail. Police face an uphill battle in getting these syndicate members and runners to cooperate with investigations, because they fear their kingpins more than they fear the law. As such, enforcing the law against organised criminal groups will be greatly assisted when evidence and testimony provided by the co-accused are forthcoming. Hence, similar to Section 35 of the Prevention of Corruption Act, the Courts will be empowered to require a co-accused to provide evidence for the prosecution, issuing a certificate of indemnity to him if he does this. The evidence of a co-accused will be useful in obtaining information on the loansharking syndicates and securing successful convictions of loansharks.

Extra-territorial Jurisdiction

25 We need to reach beyond the frontline and target the syndicate leaders. Some try to remain out of our reach by instructing local operatives from the haven of other countries. Loansharks who carry out, from other countries, unlicensed moneylending and related harassment activities in Singapore, should also be punished under our laws. Our Courts will be empowered to try an offence involving a loansharking business or which involves a victim in Singapore, even though the offence or part of the offence is committed outside Singapore. Through sharing of intelligence, our Police has maintained a good working relationship with its counterparts in neighbouring countries. Building on these networks, Police will collaborate with these counterparts to deal with perpetrators who are hiding overseas.

Addressing the Demand Side

26 Whilst focusing primarily on the supply side, we are also aware of key issues on the demand side. Top of this is whether we should make borrowing from loansharks an offence. Since I first shared that MHA was looking at this issue 2 years ago, we have received quite a lot of feedback on it. The views are mixed. Some argue that whilst many borrowers turn to loansharks because of gambling debts, there are also those who do so because of a genuine financial need such as a sudden unexpected bill to pay. Others point out that criminalising borrowing may drive the loansharking problem deeper underground, deterring borrowers from reporting instances of harassment to Police and worse, from coming forward to seek help. This, in turn, may embolden loansharks to employ even more dangerous tactics against the borrowers. It is for these reasons that we have not proceeded to do so at this stage. We will monitor the effects of the measures introduced in this Bill before reassessing our options.

27 Whatever it is, those who borrow from loansharks should understand and count the costs of borrowing from loansharks. Not only are they affected, their family and loved ones are affected as well. Owing loanshark money causes a great mental and emotional strain that can lead to dire consequences. Whilst there is no excuse or sympathy for those who borrow from loansharks to feed their gambling habit, we do, however, empathise with those who face an unplanned, temporary and short-term financial squeeze. I urge people with a genuine financial need not to be tempted to take what they perceive as the easy way out by borrowing from loansharks. Instead, they should tap other channels – community-based ones, commercially-driven ones as well as grassroots-related ones - for help. Family members, relatives and friends can also lend a helping hand to help these unfortunate ones tide over their temporary financial squeeze.

Tightening the Change of Residence Regime

28 On criminalizing actions of borrowers, for now, we will specifically target one group of errant borrowers. These are borrowers who deliberately provide outdated addresses in their NRICs or use false addresses to mislead loansharks into harassing innocent households. To protect these innocent victims, we will make it an offence for a borrower to provide false contact information to a loanshark which results in harassment activities being committed against an innocent person. Offenders are liable to be punished with imprisonment for up to a year.

29 Currently, home owners need only seek HDB's approval when they sublet their whole flats. HDB intends to also require HDB home owners to register the particulars of their subtenants when they rent out rooms. This will make it harder for borrowers to remain untraceable when they rent a room in a HDB flat. In tandem with the new HDB initiative, the National Registration Act and Immigration Act will also be amended to empower ICA to obtain information from HDB to enable it to more effectively administer and enforce the requirement to report addresses or a change of address. This will facilitate the tracing of those borrowers who move from place to place to avoid the

loansharks but in the process, cause innocent new home owners or subtenants to be harassed.

30 In November 2008, I moved amendments in this House to modernize and streamline our licensed moneylending regime, setting it on a more stable footing. As at end of last year, there were 218 licensed moneylenders, up from 173 at the end of 2008. Between March and September last year, which represents a 7 month period since these amendments came into effect, licensed moneylenders granted over \$3.8m (\$3,816,874) in more than 1,700 (1,709) loans to borrowers earning less than \$20,000 per annum. This works out to almost 250 loans per month. These are small loans where the amount is capped at \$3,000, with the interest rate also capped at 18 percent per annum. In the event of unexpected emergencies, such as defraying medical costs or meeting business exigencies, these low-income borrowers can borrow more than \$3,000. Besides licensed moneylenders, low-income borrowers are also able to obtain loans from licensed pawnshops which do not impose any minimum income requirement. As at November last year, there were 138 pawnbrokers, up from 114 at the end of 2008. In addition, there are Community Development Councils, constituency grassroots organizations, ethnic-based organizations like the CDAC, Sinda and Mendaki as well as member-based Thrift and Loan societies that those in need of financial assistance can turn to.

Conclusion

31 In conclusion, let me say that this Bill is not a panacea or magic bullet to eradicate the loanshark problem. But the new measures will hopefully dent the intensity of loansharking activities. As I had explained earlier, unlicensed moneylending and loanshark harassment cases are not easy to solve. It is also not possible to fully anticipate new tactics loansharks will adopt. In short, the problem will not go away but Police will do its very best to detect and punish all those who are involved in loansharking.

32 I end by calling on everyone to press on resolutely. Continuing with our multi-pronged approach where the Police, relevant government agencies, grassroots organizations, social support groups, parents and teachers are active stakeholders is crucial if we are to tackle this scourge effectively. On its part MHA will continue to actively monitor the evolving situation. Police will come down hard on all loansharks regardless of what they do in the syndicate. In this context, I can say that this Bill's key effect will be to make it that much harder for loansharks to perpetrate their clandestine operations in Singapore.

33 Sir, I beg to move.