

# Infrastructure Protection Act | The New Regulatory Framework for Security-by-Design

## Infrastructure Protection Act 2017

The Infrastructure Protection Act (“**IPA**”) was passed by Parliament on **2 October 2017** and, among other things, creates a new regulatory framework for the incorporation of security-by-design in designated developments and buildings. The new framework sets out the requirements and processes for building owners and developers who fall within its regulatory scope to incorporate security plans in the development and redevelopment of infrastructure. In particular:

- The IPA will ensure that critical infrastructure, buildings with high public footfall and iconic buildings are designed with security considerations taken into account. The IPA will require such buildings to undergo a security-by-design process before construction or renovation.
- The IPA will also allow authorities to issue directives and orders to protect other buildings in Singapore. For buildings which are not required to implement security-by-design, the IPA enables the Ministry of Home Affairs (“**MHA**”) to introduce or to issue directives for owners or occupiers to put in place appropriate security measures. In the event of an imminent security threat, emergency orders may also be issued to protect these buildings.

The new legislation comes against a backdrop of modernisation and renewal in security-related measures including the recent passage of the Cybersecurity Act.

While the IPA has **yet to come into operation**, Parliamentary speeches have already set out the potential designation criteria in broad strokes. Interested parties including developers, existing building owners and managers intending to conduct renovations and extensions to their buildings, and acquirers of existing buildings, should take heed of any potential designation, the obligations imposed upon designation, and how these obligations should factor into business decisions.

This Update focuses on the following aspects of the IPA which interested parties should be aware of:

- differences between “Special Developments” and “Special Infrastructures”;
- criteria for designation; and
- obligations post-designation in relation to security-by-design.

## “Special Developments” or “Special Infrastructures”

### *Special Developments: New Developments*

Under section 34 of the IPA, new buildings that meet the designation criteria and have not yet been built will be designated as Special Developments. They will need to undergo security-by-design before construction starts.

Once the certificate of works completion for a Special Development has been approved by the Commissioner of Infrastructure Protection, that Special Development will be treated as if it has been designated as a Special Infrastructure.

### *Special Infrastructures: Existing Buildings*

Under section 41 of the IPA, existing buildings that meet the designation criteria will generally be designated as Special Infrastructure. They will need to undergo security-by-design when they undertake major renovations. MHA will engage each owner and assess the need for security measures, taking into consideration the building's actual land use and profile. Any further requirements to be imposed will be reasonable and practical, taking into account the fact that these are existing and not new buildings.

## Designation Criteria

### *Designation Criteria: Types of buildings*

Buildings may be designated and required to undertake security-by-design in the interests of public safety and security, or national interests. Two groups of buildings will be designated as Special Developments or Special Infrastructures:

- *Critical infrastructures*

All critical infrastructures (i.e., buildings which are vital to the delivery of essential services such as water, power and transport), whether existing or new, will be designated. In the past decade, Government agencies have identified critical infrastructures for the incorporation of security into design and owners of such infrastructures would already be familiar with the same. This will continue under the IPA.

- *Large or iconic buildings, which face a higher level of threat either due to high public footfall, or because of their prominence or symbolic significance*

New buildings that have potential of high public footfall may be designated as "Special Developments". Buildings will be identified based on objective criteria such as:

- gross floor area;
- zoning (e.g., for commercial, community or mixed use); and
- planning areas.

New developments that do not meet the high public footfall criteria, but are iconic, may also be designated as Special Developments.

It has been reported that the designation of buildings as Special Developments or Special Infrastructures will be as transparent as possible, and that building owners will be informed as early as possible. Further clarity should be forthcoming once the IPA comes into operation and subsidiary legislation is also put in place.

### *Designation Criteria: Designation of Specific Buildings and Class Designation*

In addition to the designation criteria, the IPA also provides flexibility for either *specific* developments or buildings to be designated (whether as Special Developments or Special Infrastructures) or *class designations*. Any class designation would be required to be published by order in the Gazette pursuant to sections 34 and 41 of the IPA.

## Obligations Post-Designation

### *Security-by-design*

Generally, once a development or infrastructure is designated, such development or infrastructure will be required to undergo security-by-design and the "responsible person" of that development or

infrastructure will be required to comply with the relevant obligations and processes.

Security-by-design is a process to ensure that security is integrated into the building design. It attempts to mitigate security risks through good building design, and incorporates security measures upfront into the building features. Examples of such security measures include:

- hardening of structural elements, such as walls and columns, to resist bomb blast effects;
- providing for a stand-off distance using security barriers to prevent unauthorised vehicles from coming close to the building; and
- combining security technology with operational processes, such as monitoring CCTVs, operating access control systems, or implementing security procedures.

#### *Process*

Once designated, both Special Developments and Special Infrastructures will be required to observe the process for the implementation of security-by-design prior to and during the specified construction works, including:

- obtaining the Commissioner's approval for a security plan prepared by a person approved by the Commissioner (as stipulated by the IPA) and containing the security risk assessment and security measures required for that development or infrastructure;
- obtaining the Commissioner's approval if any amendments to the security plan are required;
- ensuring the security measures in the security plan are implemented in accordance with the approved security plan and stipulated timelines; and

- ensuring that the security measures are maintained after completion.

#### *Who is responsible?*

The obligation to ensure compliance with the security-by-design and other requirements falls on the "responsible person". Under section 32 of the IPA, the "responsible person" would generally be the "owner(s)" of the relevant "Special Development" or "Special Infrastructure" and, in the case where an existing building is designated as a "Special Infrastructure" may be the "occupier(s)" instead if so specified at the time of designation.

The IPA will impose fines and/or imprisonment as penalties for non-compliance.

### **Repeal of Protected Areas and Protected Places Act and Enhancement of Powers**

When the IPA comes into operation, the existing legislative framework in the Protected Areas and Protected Places Act ("**PAPPA**") will be repealed and replaced by the IPA.

The IPA will enhance powers to protect sensitive locations, currently declared under the PAPPA (mostly critical infrastructure or military areas). The IPA will also address gaps in the PAPPA and give the authorised officers of these locations enhanced powers to address threats and implement heightened surveillance in the surrounding area.

While the framework for "protected places" and "protected areas" is primarily intended for sensitive locations, it should be noted that certain powers and prohibitions specific to the protection of "protected places" and "protected areas" may also apply to a specified surrounding area and to activities which are conducted outside such "protected places" and "protected areas" such as:

- powers of inspection; and
- prohibited photography.

If you would like information on this or any other area of law, you may wish to contact the partner at WongPartnership that you normally deal with or any of the following partners:



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