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**AGC'S RESPONSE TO THE COURT OF APPEAL'S DECISION IN
THE CITY HARVEST CHURCH CASE –
PP v LAM LENG HUNG & ORS**

The Court of Appeal has today held that section 409 of the Penal Code only applies to professional agents, in its judgment on the Criminal Reference filed by the Public Prosecutor.

2 In coming to this decision, the Court of Appeal overruled a 1976 High Court decision, which had held that company directors could be convicted for criminal breach of trust under section 409 of the Penal Code. That was the position consistently taken by the courts since 1976, until the High Court which heard the Magistrate's Appeal for the present case departed (by a 2-1 majority) from the position in the 1976 High Court decision.

3 The Court of Appeal has now ruled that company directors, as well as governing board members or key officers of charities and officers of societies, who commit criminal breach of trust of company property are only liable to be punished under section 406 of the Penal Code (Criminal Breach of Trust *simpliciter*), which provides for a maximum sentence of 7 years' imprisonment. In contrast, employees of a company who commit criminal breach of trust are liable for up to 15 years' imprisonment.

4 In pronouncing its judgment, the Court of Appeal stated that a "wide-ranging policy review" of the legislative provisions on criminal breach of trust was "essential" and "long overdue", and that this was a matter for Parliament.

5 Given the Court of Appeal's decision, the Attorney-General's Chambers will work with the relevant ministries on the appropriate revisions to the Penal Code, to ensure that company directors and other

persons in similar positions of trust and responsibility are subject to appropriate punishments if they commit criminal breach of trust.

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ATTORNEY-GENERAL'S CHAMBERS
MEDIA AND COMMUNICATIONS UNIT

For queries, please contact:

Ms Lai Xue Ying
Manager
Tel: 6908 3067
Email: lai_xue_ying@agc.gov.sg

Ms Jade Chen Wen Yi
Manager
Tel: 6908 8224
Email: jade_chen@agc.gov.sg