

Personal Data Protection Bill

Bill No. /2012.

Read the first time on 2012.

PERSONAL DATA PROTECTION ACT 2012

(No. 2012)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
3. Purpose
4. Application of Act
5. Act to apply only to personal data with Singapore link

PART II

DATA PROTECTION COMMISSION AND ADMINISTRATION

6. Data Protection Commission
7. Functions of Commission
8. Advisory committees
9. Delegation
10. Data Protection Fund
11. Administration Body
12. Co-operation agreements

PART III

GENERAL RULES WITH RESPECT TO PROTECTION OF PERSONAL DATA

13. Compliance with Act
14. Policies and practices

PART IV

COLLECTION, USE AND DISCLOSURE OF
PERSONAL DATA

Division 1 — Consent

15. Consent required
16. Provision of consent
17. Deemed consent
18. Withdrawal of consent
19. Collection, use and disclosure without consent

Division 2 — Purpose

20. Limitation of purpose and extent
21. Personal data collected before the appointed day
22. Notification of purpose

PART V

ACCESS TO AND CORRECTION OF
PERSONAL DATA

23. Access to personal data
24. Right to request correction of personal data

PART VI

CARE OF PERSONAL DATA

25. Accuracy of personal data
26. Protection of personal data
27. Retention of personal data

PART VII

ENFORCEMENT OF PART III TO PART VI

28. Guidelines on enforcement
29. Alternative dispute resolution
30. Power to review
31. Power to give directions
32. Enforcement of directions of Commission in District Court
33. Power to investigate or conduct inquiry
34. Records relating to an investigation

- 35. Offences and penalties
- 36. Right of private action

PART VIII

APPEALS TO DATA PROTECTION APPEAL COMMITTEE, HIGH COURT AND COURT OF APPEAL

- 37. Data Protection Appeal Panel and Data Protection Appeal Committees
- 38. Appeal from direction or decision of Commission
- 39. Appeals to High Court and Court of Appeal

PART IX

DO NOT CALL REGISTER

Division 1 — Preliminary

- 40. Interpretation of this Part
- 41. Meaning of “specified message”
- 42. Application of Part IX

Division 2 — Administration

- 43. Register
- 44. Applications
- 45. Evidence
- 46. Information on terminated Singapore telephone number

Division 3 — Specified message to Singapore telephone number

- 47. Duty to check register
- 48. Contact information
- 49. Calling line identity not to be concealed

PART X

GENERAL

- 50. Offences by bodies corporate, etc.
- 51. Liability of principals, agents, employers and employees
- 52. Jurisdiction of courts
- 53. Composition of offences
- 54. General penalties
- 55. Public servants

56. Evidence in proceedings
 57. Preservation of secrecy
 58. Protection from personal liability
 59. Symbol of Commission
 60. Power to exempt
 61. Certificate as to national security, etc.
 62. Power to make orders
 63. Power to make regulations
 64. Rules of Court
 65. Related amendments to Info-communications Development Authority of Singapore Act
 - First Schedule — Constitution and proceedings of Data Protection Commission
 - Second Schedule — Management and administration of Data Protection Fund
 - Third Schedule — Collection of personal data without consent
 - Fourth Schedule — Use of personal data without consent
 - Fifth Schedule — Disclosure of personal data without consent
 - Sixth Schedule — Exceptions from access requirement
 - Seventh Schedule — Exceptions from correction requirement
 - Eighth Schedule — Powers of investigation and inquiry of Commission and inspectors
 - Ninth Schedule — Constitution and proceedings of Data Protection Appeal Panel and Data Protection Appeal Committees
 - Tenth Schedule — Exclusion from meaning of specified message
-

A BILL

i n t i t u l e d

An Act to govern the collection, use and disclosure of personal data by organisations; and to establish the Data Protection Commission and Data Protection Fund, to provide for their administration, and for matters connected therewith, and to make related amendments to the Info-communications and Development Authority of Singapore Act (Chapter 137A of the 2000 Revised Edition).

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

PART I

PRELIMINARY

Short title and commencement

- 5 **1.** This Act may be cited as the Personal Data Protection Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires —
- 10 “Administration Body” means the Administration Body appointed under section 11;
- “Advisory Committee” means an advisory committee appointed under section 8;
- “Appeal Committee” means a Data Protection Appeal Committee referred to in section 37;
- 15 “Appeal Panel” means the Data Protection Appeal Panel referred to in section 37(1);
- “appointed day” means the date of commencement of Parts III to VI of this Act;
- 20 “authorised officer”, in relation to the exercise of any power or performance of any function or duty under this Act, means a person to whom the exercise of that power or performance of that function or duty has been delegated under section 9(2);
- “benefit plan” means an insurance policy, pension plan, annuity, provident fund plan or other similar plan;
- 25 “business” includes the activity of any organisation, whether or not carried on for purposes of gain, or conducted on a regular, repetitive or continuous basis, but excludes an individual acting in his personal or domestic capacity;
- 30 “business contact information” means an individual’s name, position name or title, business telephone number, business

address, business electronic mail address or business fax number and any other similar information about the individual, unless the personal data was provided by the individual solely for use in a personal context;

5 “Chairman” means the Chairman of the Appeal Panel appointed under section 37(3);

“Commission” means the Data Protection Commission referred to in section 6;

10 “credit bureau” has the same meaning as in Part III of the Third Schedule to the Banking Act (Cap. 19);

“credit report” means a communication, whether in written, oral or other form, with respect to the credit information of an individual;

15 “data intermediary” means an organisation which processes personal data on behalf of another organisation but does not include an employee of that other organisation;

“document” includes information recorded in any form;

“domestic” means related to home or family;

20 “education institution” means any organisation that provides education, including instruction, training or teaching, whether by itself or in association or collaboration with or by affiliation with any other person;

“employee” includes a volunteer, and “employment” includes working under an unpaid volunteer work relationship;

25 “evaluative purpose” means —

(a) for the purpose of determining the suitability, eligibility or qualifications of the individual to whom the data relates —

- (i) for employment or for appointment to office;
- 30 (ii) for promotion in employment or office or for continuance in employment or office;
- (iii) for removal from employment or office;

- (iv) for admission to an education institution;
- (v) for the awarding of contracts, awards, bursaries, scholarships, honours or other similar benefits;
- (vi) for selection for an athletic or artistic purpose; or
- 5 (vii) for grant of financial or social assistance under any scheme administered by a public agency; or
- (b) for the purpose of determining whether any contract, award, bursary, scholarship, honour or other similar benefit should be continued, modified or cancelled;
- 10 (c) for the purpose of deciding whether to insure any individual or property or to continue or renew the insurance of any individual or property; or
- (d) for such other similar purposes as may be prescribed by the Minister;
- 15 “Executive Director” means the Executive Director of the Commission appointed under the First Schedule;
- “Fund” means the Data Protection Fund established under section 10;
- “individual” means a natural person, whether living or
- 20 deceased;
- “investigation” means an investigation relating to —
 - (a) a breach of an agreement;
 - (b) a contravention of any written law or any rule of professional conduct or other requirement imposed by
 - 25 any regulatory authority in exercise of its powers under any written law; or
 - (c) a circumstance or conduct that may result in a remedy or relief being available under any law;
- “national interest” includes national security, defence, public
- 30 security, the conduct of international affairs and the financial and economic interest of Singapore;
- “news activity” means —

- 5 (a) the gathering of news, or the preparation or compiling of articles or programmes of or concerning news, observations on news, or current affairs, for the purposes of dissemination to the public or any section of the public; or
- (b) the dissemination, to the public or any section of the public, of any article or programme of or concerning —
- 10 (i) news;
- (ii) observations on news; or
- (iii) current affairs;

15 “news organisation” means any organisation whose business, or part of whose business, consists of a news activity and which has been declared by the Minister, by notification in the *Gazette*, to be a news organisation for the purposes of this Act;

“organisation” includes any individual, company, association or body of persons, corporate or unincorporated;

20 “personal data” means data, whether true or not, about an individual who can be identified —

- (a) from that data; or
- (b) from that data and other information to which the organisation is likely to have access;

25 “prescribed law enforcement agency” means an authority charged with the duty of investigating offences or charging offenders under written law, prescribed for the purposes of the First, Second or Third Schedule by the Minister charged with the responsibility for that authority;

30 “private trust” means a trust for the benefit of one or more designated individuals who are friends, or members of the family, of the settlor;

“proceedings” means any civil, criminal, or administrative proceedings by or before a court, tribunal or regulatory authority that is related to the allegation of —

(a) a breach of an agreement;

5 (b) a contravention of any written law or any rule of professional conduct or other requirement imposed by any regulatory authority in exercise of its powers under any written law; or

10 (c) a wrong or a breach of a duty for which a remedy is claimed under any law;

“processing”, in relation to personal data, means the carrying out of any operation or set of operations in relation to the personal data, and includes any of the following:

(a) recording;

15 (b) holding;

(c) organisation, adaptation or alteration;

(d) retrieval;

(e) combination;

(f) transmission; or

20 (g) erasure or destruction;

“public agency” includes —

(a) the Government, including any ministry, department, agency, or Organ of State or instrumentality of the Government;

25 (b) any statutory body;

(c) any other board, commission, committee or similar body appointed by the Government, or by a statutory body, for a public purpose; or

(d) any other prescribed body;

30 “relevant body” means the Commission, the Administration Body, the Appeal Panel or any Appeal Committee;

“statutory body” means any board, commission, committee or similar body, whether corporate or unincorporate, established under a public Act for a public function;

5 “tribunal” includes a judicial or quasi-judicial body or a disciplinary, arbitral or mediatory body.

Purpose

3. The purpose of this Act is to govern the collection, use and disclosure of personal data by organisations in a manner that recognises both the right of individuals to protect their personal data and the need of organisations to collect, use or disclose personal data for purposes that a reasonable person would consider appropriate in the circumstances.

Application of Act

4.—(1) Parts III to VI shall not impose any obligation on —

15 (a) any individual acting in a personal or domestic capacity;

(b) any individual acting as an employee of an organisation;

(c) any public agency or an organisation in the course of acting as an agent of a public agency in relation to the processing of the personal data; or

20 (d) any other prescribed classes of organisations or personal data or organisations.

(2) Parts III to VI (except for section 26 (Protection of personal data)) shall not impose any obligation on a data intermediary in respect of personal data processed by the data intermediary on behalf of another organisation pursuant to a contract which is evidenced or made in writing.

(3) An organisation shall have the same obligation under this Act in respect of personal data processed on its behalf by a data intermediary as if the personal data were processed by the organisation itself.

(4) This Act shall not apply in respect of —

(a) personal data about an individual that is contained in a record that has been in existence for at least 100 years; or

5 (b) personal data of a deceased individual, except that the provisions relating to the disclosure of personal data and section 26 (Protection of personal data) shall apply in respect of the personal data of an individual who has been dead for not more than 10 years.

10 (5) Parts V (Access to and correction of personal data) and VI (Care of personal data) shall not apply to business contact information —

(a) kept solely for the purposes of communicating or facilitating communication with the individual in relation to his employment, business or profession; or

15 (b) included in a document or record produced in the course, and for the purposes, of the individual's employment, business or profession.

20 (6) Except in relation to a contractual obligation the performance of which would contravene this Act, nothing in this Act shall affect any right or privilege conferred or obligation imposed by or under the law, including legal professional privilege.

(7) To the extent that any provision of this Act is inconsistent with any provision of other written law, the provision of the other written law shall prevail.

Act to apply only to personal data with Singapore link

25 **5.**—(1) Parts III to VI shall not apply unless the personal data in question has a Singapore link.

(2) For the purposes of subsection (1), personal data has a Singapore link in any of the following circumstances:

30 (a) in relation to a requirement involving the collection of personal data about an individual —

(i) the personal data is collected from an individual who is physically present in Singapore at the time of the collection; or

- (ii) the personal data was located in Singapore at the time of the collection;
- (b) in relation to a requirement involving the use of personal data about an individual —
- 5 (i) the organisation uses the personal data in Singapore; or
- (ii) the personal data was collected in the circumstances set out in paragraph (a);
- (c) in relation to a requirement involving the disclosure of personal data about an individual —
- 10 (i) the personal data is disclosed in Singapore; or
- (ii) the personal data was collected in the circumstances set out in paragraph (a);
- (d) in relation to a requirement under Part V —
- 15 (i) the organisation uses the personal data in Singapore; or
- (ii) the personal data was collected in the circumstances set out in paragraph (a);
- (e) in relation to a requirement under Part VI —
- 20 (i) the organisation uses the personal data in Singapore; or
- (ii) the personal data was collected in the circumstances set out in paragraph (a).

PART II

25 DATA PROTECTION COMMISSION AND ADMINISTRATION

Data Protection Commission

- 6.—**(1) There shall be a Data Protection Commission consisting of not fewer than 3, but not more than 7, members.
- 30 (2) The Minister shall appoint the members of the Commission.

(3) The First Schedule shall have effect with respect to the Commission, its members and its proceedings.

Functions of Commission

7. The functions of the Commission shall be —

- 5 (a) to promote awareness of data protection in Singapore;
- (b) to provide consultancy, advisory, technical, managerial or other specialist services relating to data protection;
- (c) to advise the Government on all matters relating to data protection;
- 10 (d) to represent the Government internationally on matters relating to data protection;
- (e) to conduct research and studies, and promote educational activities relating to data protection, including organising and conducting seminars, workshops and symposia relating thereto, and supporting other organisations conducting such activities;
- 15 (f) to manage technical co-operation and exchange in the area of data protection with other organisations, including foreign data protection offices and international inter-governmental organisations, on its own behalf or on behalf of the Government;
- 20 (g) to administer and enforce this Act;
- (h) to carry out functions conferred on the Commission under any other written law; and
- 25 (i) to engage in such other activities and to perform such functions as the Minister may permit or assign to the Commission by order published in the *Gazette*.

Advisory committees

- 30 8.—(1) The Minister may appoint one or more advisory committees to provide advice to the Commission with regard to the performance of any of its functions under this Act.

(2) The Commission may consult such advisory committees in relation to the performance of its functions and duties and the exercise of its powers under this Act but shall not be bound by such consultation.

5 **Delegation**

9.—(1) The Commission may appoint by name or office such number of inspectors and other officers, being public officers or employees of a statutory body, as the Commission thinks fit.

10 (2) The Commission may delegate the exercise of all or any of its functions, duties and powers under this Act (except the power of delegation conferred by this subsection) to any officer appointed under subsection (1), subject to such conditions or limitations as the Commission may specify.

15 (3) In exercising any of the powers of enforcement under this Act, an authorised officer shall on demand produce to the person against whom he is acting the authority issued to him by the Commission.

20 (4) Any decision of the Commission or of any person to whom any function, duty or power has been delegated by the Commission may be signified under the hand of the Executive Director or any person authorised by the Executive Director to sign on his behalf.

Data Protection Fund

10.—(1) There shall be a Data Protection Fund into which shall be paid —

25 (a) all moneys from time to time appropriated from the Consolidated Fund and authorised to be paid into the Fund by this Act or any other written law;

(b) any cash grant made by the Government;

30 (c) all investments out of moneys in the Fund authorised to be made by this Act and the proceeds of any such investment, including the net income from such investments;

(d) all financial penalties paid under section 31 and composition sums paid under section 53; and

(e) all moneys received by way of charges and fees under this Act in respect of the Commission.

(2) The moneys in the Fund may be withdrawn and applied for all or any of the following purposes only:

5 (a) the provision of financing (but not loans) or incentives (including grants and scholarships) to any public authority, enterprise, education institution or other person (whether in Singapore or elsewhere) undertaking or facilitating any programme to promote data protection awareness or
10 implementation;

(b) the payment of expenses of the Commission, any Advisory Committee, the Appeal Panel, any Appeal Committee or the Administration Body incurred for the purposes of this Act, including any remuneration or allowances payable to the
15 members thereof;

(c) the payment of costs and expenses in relation to appeals under Part VIII;

(d) the payment of expenses incidental to or arising from the administration and enforcement of this Act;

20 (e) the payment of all expenses incidental to or arising from the administration, investment and management of moneys in the Fund.

(3) No payment shall be made out of the Fund unless the payment is authorised by the Commission.

25 (4) The Fund shall vest in the Administration Body and the Administration Body shall, subject to the directions of the Minister, manage and administer the Fund.

(5) Upon dissolution of the Fund during any term of office of the Government (within the meaning of the Constitution), the balance of such moneys remaining in that Fund shall be transferred to the
30 Consolidated Fund and be added to the reserves of the Government not accumulated by it during that term of office.

(6) The Second Schedule shall have effect in relation to the management and administration of the Fund.

Administration Body

11.—(1) The Minister may, by notification in the *Gazette*, appoint an Administration Body.

(2) The Administration Body may —

- 5 (a) advise the Minister on any matter relating to the management and administration of the Fund that the Administration Body considers appropriate or that is referred to the Administration Body by the Minister;
- 10 (b) enter agreements for the purposes of the Commission, including any co-operation agreement; and
- (c) provide the Commission with such administrative and other support as may be required.

15 (3) Proceedings in respect of an offence under this Act may, with the authorisation of the Public Prosecutor, be conducted by an officer of the Administration Body who is authorised in writing in that behalf by the Executive Director.

20 (4) Notwithstanding the provisions of any written law, a legal counsel (by whatever name called) of the Administration Body who has been admitted as an advocate and solicitor under the Legal Profession Act (Cap. 161) may —

- (a) appear in any civil proceedings involving the Commission in the performance of its functions or duties under any written law; and
- 25 (b) make and do all acts and applications in respect of the civil proceedings on behalf of the Commission.

Co-operation agreements

12.—(1) For the purposes of sections 11 and 57, a co-operation agreement is an agreement with a regulatory authority for the purposes of —

- 30 (a) facilitating co-operation between the Commission and the regulatory authority in the performance of their respective functions in so far as they relate to data protection; and

(b) avoiding duplication of activities by the Commission and the regulatory authority, being activities involving the enforcement of data protection laws.

(2) A co-operation agreement may include provisions —

5 (a) to enable each regulatory authority to furnish to the other regulatory authority information in its possession if the information is required by that other authority for the purpose of performance by it of any of its functions;

10 (b) to provide such other assistance to the other regulatory authority as will facilitate the performance by that other authority of any of its functions; and

15 (c) to enable each regulatory authority to forbear to perform any of its functions in relation to a matter in circumstances where it is satisfied that another authority is performing functions in relation to that matter.

(3) The Commission shall not furnish any information to a foreign data protection body pursuant to a co-operation agreement unless it requires of, and obtains from, that body an undertaking in writing by it that it will comply with terms specified in that requirement, including terms that correspond to the provisions of any other written law concerning the disclosure of that information by the Commission.

25 (4) The Commission may give an undertaking to a foreign data protection body that it will comply with terms specified in a requirement made of the Commission by the body to give such an undertaking where —

30 (a) those terms correspond to the provisions of any law in force in the country or territory in which the body is established, being provisions which concern the disclosure by the body of the information referred to in paragraph (b); and

(b) compliance with the requirement is a condition imposed by the body for furnishing information in its possession to the Commission pursuant to a co-operation agreement.

(5) In this section, “foreign data protection body” means a body in whom there are vested functions under the law of another country or territory with respect to the enforcement or the administration of provisions of law of that country or territory concerning data protection.

PART III

GENERAL RULES WITH RESPECT TO PROTECTION OF PERSONAL DATA

Compliance with Act

10 **13.**—(1) In meeting its responsibilities under this Act, an organisation shall consider what a reasonable person would consider appropriate in the circumstances.

(2) An organisation is responsible for personal data in its custody or under its control.

15 (3) An organisation shall designate one or more individuals to be responsible for ensuring that the organisation complies with this Act.

(4) An individual designated under subsection (3) may delegate to another individual the duty conferred by that designation.

20 (5) An organisation shall make available to the public the business contact information of each individual designated under subsection (3) or delegated under subsection (4).

(6) The designation of an individual by an organisation under subsection (3) shall not relieve the organisation of any of its obligations under this Act.

Policies and practices

14. An organisation shall —

(a) develop and implement policies and practices that are necessary for the organisation to meet the obligations of the organisation under this Act;

- (b) develop a process to receive and respond to complaints that may arise with respect to the application of this Act;
- (c) communicate to staff information about the organisation's policies and practices referred to in paragraph (a); and
- 5 (d) make information available on request about —
 - (i) the policies and practices referred to in paragraph (a); and
 - (ii) the complaint process referred to in paragraph (b).

PART IV

10 COLLECTION, USE AND DISCLOSURE OF PERSONAL DATA

Division 1 — Consent

Consent required

15 **15.** An organisation shall not, on or after the appointed day, collect, use or disclose personal data about an individual unless —

- (a) the individual gives, or is deemed to give, his consent under this Act to the collection, use or disclosure, as the case may be; or
- 20 (b) the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorised under this Act or any other written law.

Provision of consent

25 **16.—(1)** An individual has not given consent under this Act for the collection, use or disclosure of personal data by an organisation for a purpose unless —

- (a) the organisation has provided the individual with the information required under section 22; and
- (b) the individual provided his consent in accordance with this Act.

(2) An organisation shall not, as a condition of supplying a product or service, require an individual to consent to the collection, use or disclosure of personal data beyond what is reasonable to provide the product or service to that individual.

5 (3) If an organisation attempts to obtain consent for collecting, using or disclosing personal data by —

(a) providing false or misleading information with respect to the collection, use or disclosure of the personal data; or

(b) using deceptive or misleading practices,

10 any consent provided in those circumstances is not validly given.

Deemed consent

17. An individual is deemed to consent to the collection, use or disclosure of personal data by an organisation for a purpose if —

15 (a) the individual, without actually giving consent referred to in section 16, voluntarily provides the personal data to the organisation for that purpose; and

(b) it is reasonable that the individual would voluntarily provide the data.

Withdrawal of consent

20 **18.—**(1) Subject to subsection (5), on giving reasonable notice to the organisation, an individual may at any time withdraw any consent given, or deemed to have been given under this Act, in respect of the collection, use or disclosure of personal data about the individual for any purpose.

25 (2) On receipt of the notice referred to in subsection (1), an organisation shall inform the individual of the likely consequences to the individual of withdrawing his consent.

30 (3) An organisation shall not prohibit an individual from withdrawing his consent to the collection, use or disclosure of personal data related to the individual.

(4) Subject to section 27, if an individual withdraws consent to the collection, use or disclosure of personal data by an organisation for

any purpose, the organisation shall cease (and cause its data intermediaries and agents to cease) collecting, using or disclosing the personal data, as the case may be, unless the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorised under this Act or any other written law.

(5) An individual may not withdraw consent if withdrawing the consent would frustrate the performance of a legal obligation.

Collection, use and disclosure without consent

19.—(1) An organisation may collect personal data about an individual without consent or from a source other than the individual, only in the circumstances, and subject to any conditions, in the Third Schedule.

(2) An organisation may use personal data about an individual without the consent of the individual only in the circumstances, and subject to any conditions, in the Fourth Schedule.

(3) An organisation may disclose personal data about an individual without the consent of the individual only in the circumstances, and subject to any conditions, in the Fifth Schedule.

Division 2 — Purpose

Limitation of purpose and extent

20. Subject to this Act, an organisation may collect, use or disclose personal data only for purposes —

- (a) that a reasonable person would consider appropriate in the circumstances; and
- (b) that the organisation informs the individual under section 22, if applicable.

Personal data collected before the appointed day

21. Notwithstanding the other sections in this Part, an organisation may use personal data collected before the appointed day for the purposes for which the personal data was collected unless —

(a) consent for such use is withdrawn in accordance with section 18; or

(b) whether before or after the appointed date, the individual has otherwise indicated to the organisation that he does not consent to the use of the personal data.

Notification of purpose

22.—(1) For the purposes of sections 16(1) and 20(b), an organisation shall inform the individual —

(a) the purposes for the collection, use or disclosure of the personal data, as the case may be, on or before collecting the personal data;

(b) any other purpose of the use or disclosure of the personal data of which the individual has not been informed under paragraph (a), before the use or disclosure of the personal data for that purpose; and

(c) on request by the individual, the business contact information of a person who is able to answer the individual's questions about the collection, use or disclosure on behalf of the organisation.

(2) On or before collecting personal data about an individual from another organisation without the consent of the individual, an organisation shall provide the other organisation with sufficient information regarding the purpose of the collection to allow that other organisation to determine whether the disclosure would be in accordance with this Act.

(3) Subject to subsection (4), this section shall not apply if —

(a) the individual is deemed to have consented to the collection, use or disclosure, as the case may be, under section 17; or

(b) the organisation collects, uses or discloses the personal data without the consent of the individual under section 19.

(4) Notwithstanding subsection (3), an organisation shall, on or before collecting, using or disclosing the personal data about an individual for the purpose of managing or terminating an

employment relationship between the organisation and that individual, inform the individual —

- (a) of that purpose; and
- (b) on request by the individual, the business contact information of a person who is able to answer the individual's questions about that collection, use or disclosure on behalf of the organisation.

PART V

ACCESS TO AND CORRECTION OF PERSONAL DATA

Access to personal data

23.—(1) Subject to subsections (2) to (4), on request of an individual, an organisation shall, as soon as reasonably possible, provide the individual with —

- (a) the individual's personal data in the custody or under the control of the organisation;
- (b) information about the ways in which the personal data referred to in paragraph (a) has been or may have been used by the organisation; and
- (c) in addition, if the organisation is a credit bureau, the sources from which it received the personal data unless it is reasonable to assume the individual can ascertain those sources.

(2) An organisation is not required to disclose personal data and other information under subsection (1) in respect of the matters specified in the Sixth Schedule.

(3) An organisation shall not disclose personal data and other information under subsection (1) in any of the following circumstances:

- (a) the disclosure could reasonably be expected to threaten the safety or physical or mental health of an individual other than the individual who made the request;

- (b) the disclosure can reasonably be expected to cause immediate or grave harm to the safety or to the physical or mental health of the individual who made the request;
 - (c) the disclosure would reveal personal data about another individual;
 - (d) the disclosure would reveal the identity of an individual who has provided personal data about another individual and the individual providing the personal data does not consent to the disclosure of his identity; or
 - (e) the disclosure of the information would harm the national interest.
- (4) If an organisation is able to remove the information referred to in subsections (2) and (3) from a document that contains personal data about the individual who requested it, the organisation shall provide the individual with access to the personal data after all such information is removed.

Right to request correction of personal data

24.—(1) An individual may request an organisation to correct an error or omission in the personal data that is —

- (a) about the individual; and
 - (b) in the custody or under the control of the organisation.
- (2) Unless the organisation is satisfied on reasonable grounds that a correction should not be made, the organisation shall —
- (a) correct the personal data as soon as practicable; and
 - (b) send the corrected personal data to —
 - (i) every organisation to which the personal data was disclosed by the organisation within a year before the date the correction was made; or
 - (ii) if the individual so requests, only to specific organisations to which the personal data was disclosed by the organisation within a year before the date the correction was made.

(3) When an organisation is notified under subsection (2)(b) of a correction of personal data, the organisation shall correct the personal data in its custody or under its control unless the organisation is satisfied on reasonable grounds that the correction should not be made.

(4) If no correction is made under subsection (2) or (3), the organisation shall annotate the personal data in its custody or under its control with the correction that was requested but not made.

(5) Nothing in this section shall require an organisation to correct or otherwise alter an opinion, including a professional or expert opinion.

(6) An organisation is not required to comply with this section in respect of the matters specified in the Seventh Schedule.

PART VI

CARE OF PERSONAL DATA

Accuracy of personal data

25. An organisation shall make a reasonable effort to ensure that personal data collected by or on behalf of the organisation is accurate and complete, if the personal data —

(a) is likely to be used by the organisation to make a decision that affects the individual to whom the personal data relates; or

(b) is likely to be disclosed by the organisation to another organisation.

Protection of personal data

26. An organisation shall protect personal data in its custody or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification or disposal or similar risks.

Retention of personal data

27.—(1) Notwithstanding subsection (2), if an organisation uses an individual's personal data to make a decision that directly affects the individual, the organisation shall retain that personal data for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it.

(2) An organisation shall destroy its documents containing personal data, or remove the means by which the personal data can be associated with particular individuals, as soon as it is reasonable to assume that —

- (a) the purpose for which that personal data was collected is no longer being served by retention of the personal data; and
- (b) retention is no longer necessary for legal or business purposes.

PART VII

ENFORCEMENT OF PART III TO PART VI

Guidelines on enforcement

28.—(1) The Commission may, from time to time and with a view to enabling any person to order his affairs in compliance with the provisions of this Act, cause to be published in the *Gazette* guidelines indicating the manner in which the Commission will interpret, and give effect to, the provisions of those Parts.

(2) For the purpose of preparing any guidelines under subsection (1), the Commission may consult with such persons as the Commission thinks appropriate.

(3) Where the guidelines would apply to an industry or a sector of industry that is subject to the regulation and control of another regulatory authority, the Commission shall, in preparing those guidelines, consult with that regulatory authority.

(4) Guidelines published under this section may, from time to time, be varied, amended or revoked by the Commission.

(5) Guidelines published under this section shall not be binding on the Commission.

Alternative dispute resolution

5 **29.**—(1) If the Commission is of the opinion that any complaint by an individual against an organisation may more appropriately be resolved by mediation, the Commission may, with the consent of the individual and the organisation, refer the matter to mediation.

10 (2) The Commission may direct a complainant to attempt to resolve his complaint with the organisation in the way directed by the Commission.

Power to review

30.—(1) On the application of a complainant, the Commission may review —

- 15 (a) a refusal to provide access to personal data requested by the complainant under section 23, or a failure to provide such access within a reasonable time;
- (b) a fee required from the complainant by an organisation in relation to a request under section 23 or 24; or
- 20 (c) a refusal to correct personal data in accordance with a request by the complainant under section 24, or a failure to make such correction within a reasonable time.

(2) Upon completion of its review under subsection (1), the Commission may respectively —

- 25 (a) confirm the refusal to provide access or direct the organisation to provide access to the personal data, and within such time, as specified by the Commission;
- (b) confirm, reduce or disallow a fee, or direct the organisation to make a refund to the complainant; or
- 30 (c) confirm the refusal to correct the personal data or direct the organisation to correct the personal data in such manner and within such time as the Commission may specify.

Power to give directions

5 **31.**—(1) The Commission may, if it is satisfied that an organisation is not complying with any provision in Part III to Part VI, give the organisation such directions as the Commission thinks fit in the circumstances to ensure compliance with that provision.

(2) Without prejudice to the generality of subsection (1), the Commission may, if it thinks fit in the circumstances to ensure compliance with this Act, direct the organisation —

10 (a) to stop collecting, using or disclosing personal data in contravention of this Act;

(b) to destroy personal data collected in contravention of this Act; and

15 (c) to comply with any other direction of the Commission under section 30(2); and

(d) to pay a financial penalty of such amount not exceeding \$1 million as the Commission thinks fit.

20 (3) Subsection (2)(d) shall not apply in relation to any failure to comply with a provision of this Act the breach of which is an offence under this Act.

25 (4) The Commission shall, in any direction requiring the payment of a financial penalty, specify the date before which the financial penalty is to be paid, being a date not earlier than the end of the period within which an appeal against the direction may be brought under section 38.

30 (5) The Minister may, by order published in the *Gazette*, prescribe the interest payable on the outstanding amount of any financial penalty imposed under subsection (2)(d) and for payment by instalment (as may be directed by the Commission in its discretion) of any financial penalty imposed under subsection (2)(d).

Enforcement of directions of Commission in District Court

32.—(1) For the purposes of enforcement of any direction made by the Commission under section 30(2) or 31 the Commission may

apply for the direction to be registered in a District Court in accordance with the Rules of Court and the District Court shall register the direction in accordance with the Rules of Court.

5 (2) From the date of registration of any direction under subsection (1), the direction shall be of the same force and effect, and all proceedings may be taken on the direction, for the purposes of enforcement as if it had been an order originally obtained in the District Court which shall have power to enforce it accordingly.

10 (3) A District Court shall have jurisdiction to enforce any direction in accordance with subsection (2) regardless of the monetary amount involved and may, for the purpose of enforcing such direction or commitment, make any order —

(a) to secure compliance with the direction; or

15 (b) to require any person to do any thing to remedy, mitigate or eliminate any effects arising from —

(i) any thing done which ought not, under the direction, to have been done; or

(ii) any thing not done which ought, under the direction or commitment, to have been done,

20 which would not have occurred had the direction or commitment been complied with.

Power to investigate or conduct inquiry

25 **33.**—(1) The Commission may, upon complaint or of its own motion, initiate an investigation or conduct an inquiry if the Commission is satisfied that there are reasonable grounds to believe that an organisation is not complying with this Act.

(2) The powers of investigation and inquiry of the Commission and the inspectors shall be as set out in the Eighth Schedule.

30 (3) The Commission may refuse to conduct, suspend or discontinue an investigation or inquiry under subsection (1) if —

(a) the complainant has not complied with a direction under section 29;

- (b) the parties involved in the matter have mutually agreed to settle the matter;
- (c) any party involved in the matter has commenced legal proceedings against another party in respect of a contravention or alleged contravention of this Act by the other party;
- (d) the Commission is of the opinion that the matter may be more appropriately investigated by another regulatory agency and has referred the matter to that agency; or
- (e) the Commission is of the opinion that —
- (i) a complaint is frivolous or vexatious or is not made in good faith; or
 - (ii) any other circumstances warrant refusing to conduct, suspending or discontinuing the investigation or review.

Records relating to an investigation

34. An organisation must retain records relating to an investigation or inquiry under section 33 for one year after the conclusion of the investigation or inquiry or any longer period specified in writing by the Commission.

Offences and penalties

35.—(1) An organisation or person commits an offence if the organisation or person —

- (a) wilfully collects, uses or discloses personal data in contravention of this Act;
- (b) with an intent to evade a request under section 23, disposes of, alters, falsifies, conceals or destroys, or directs another person to dispose of, alter, falsify, conceal or destroy, a record containing —
 - (i) personal data; or
 - (ii) information about the use or disclosure of personal data;

(c) obstructs the Commission or an authorised officer in the performance of their duties or powers under this Act; or

5 (d) knowingly or recklessly makes a false statement to the Commission, or knowingly misleads or attempts to mislead the Commission, in the course of the performance of the duties or powers of the Commission under this Act.

(2) An organisation or person that commits an offence under subsection (1)(a) or (b) is liable —

(a) if an individual, to a fine not exceeding \$5,000; and

10 (b) in any other case, to a fine not exceeding \$50,000.

(3) An organisation or person that commits an offence under subsection (1)(c) or (d) is liable —

15 (a) if an individual, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) in any other case, to a fine not exceeding \$100,000.

Right of private action

20 **36.**—(1) Any person who suffers loss or damage directly as a result of a contravention of Part IV, V or VI by an organisation shall have a right of action for relief in civil proceedings in a court.

(2) If the Commission has made a decision under this Act in respect of a contravention specified in subsection (1), no action to which subsection (1) applies may be brought in respect of that contravention until after the decision has become final as a result of there being no further right of appeal.

(3) The court may grant to the plaintiff in an action under subsection (1) all or any of the following:

(a) relief by way of injunction or declaration;

(b) damages;

30 (c) such other relief as the court thinks fit.

PART VIII

APPEALS TO DATA PROTECTION APPEAL COMMITTEE,
HIGH COURT AND COURT OF APPEAL**Data Protection Appeal Panel and Data Protection Appeal
Committees**

5

37.—(1) There shall be a Data Protection Appeal Panel.

(2) The Minister shall appoint the members of the Appeal Panel.

(3) The Chairman of the Appeal Panel shall be appointed by the Minister from among the members of the Appeal Panel.

10

(4) For the purpose of hearing any appeal under section 38, the Chairman may nominate a Data Protection Appeal Committee comprising 3 or more members of the Appeal Panel.

15

(5) The Ninth Schedule shall have effect with respect to the Appeal Panel, Appeal Committees and their members and the proceedings of Appeal Committees, as the case may be.

Appeal from direction or decision of Commission

20

38.—(1) Any organisation aggrieved by any direction or decision made by the Commission under section 29(2), 30(2) or 31 may appeal within the prescribed period to the Chairman against or with respect to that direction or decision.

(2) Except in the case of an appeal against the imposition, or the amount, of a financial penalty, the making of an appeal under this section shall not suspend the effect of the direction or decision to which the appeal relates.

25

(3) An Appeal Committee hearing an appeal may confirm or set aside the decision which is the subject of the appeal, or any part of it, and may —

(a) remit the matter to the Commission;

30

(b) impose or revoke, or vary the amount of, a financial penalty;

(c) give such direction, or take such other step, as the Commission could itself have given or taken; or

(d) make any other decision which the Commission could itself have made.

5 (4) Any decision of an Appeal Committee on an appeal has the same effect, and may be enforced in the same manner, as a decision of the Commission.

(5) If an Appeal Committee confirms the decision which is the subject of the appeal, it may nevertheless set aside any finding of
10 fact on which the decision was based.

Appeals to High Court and Court of Appeal

39.—(1) An appeal against, or with respect to, a decision of an Appeal Committee shall lie to the High Court —

(a) on a point of law arising from a decision of the Appeal
15 Committee; or

(b) from any decision of the Appeal Committee as to the amount of a financial penalty.

(2) An appeal under this section may be made only at the instance of —

20 (a) the organisation referred to in section 38(1);

(b) if the decision relates to a complaint, the complainant; or

(c) the Commission.

(3) The High Court shall hear and determine any such appeal and may —

25 (a) confirm, modify or reverse the decision of the Appeal Committee; and

(b) make such further or other order on such appeal, whether as to costs or otherwise, as the Court may think fit.

30 (4) There shall be such further right of appeal from decisions of the High Court under this section as exists in the case of decisions made by that Court in the exercise of its original civil jurisdiction.

PART IX

DO NOT CALL REGISTER

*Division 1 — Preliminary***Interpretation of this Part**

- 5 **40.**—(1) In this Part, unless the context otherwise requires —
- “calling line identity” means the number or information identifying the sender;
- “goods” means —
- 10 (a) any personal property, whether tangible or intangible, and includes —
- (i) chattels that are attached or intended to be attached to real property on or after delivery; and
- (ii) financial products and credit, including credit extended solely on the security of land;
- 15 (b) any residential property; or
- (c) a voucher;
- “message” means any message, whether in sound, text, visual or other form;
- 20 “register” means any Do Not Call Register kept and maintained under section 43;
- “send”, in relation to a message, means —
- (a) send the message, cause the message to be sent, or authorise the sending of the message; or
- 25 (b) make a voice call containing the message, cause a voice call containing the message to be made, or authorise the making of the voice call containing the message;
- “sender”, in relation to a message, means a person —

- (a) who sends the message, causes the message to be sent, or authorises the sending of the message; or
- (b) who makes a voice call containing the message, causes a voice call containing the message to be made, or authorises the making of the voice call containing the message;

5

“services” includes —

- (a) a service offered or provided that involves the addition to or maintenance, repair or alteration of goods or any residential property;
- (b) a membership in any club or organisation if the club or organisation is a business formed to make a profit for its owners;
- (c) the right to use time share accommodation under a time share contract; and
- (d) financial services;

10

15

“Singapore telephone number” means —

- (a) a telephone number, with 8 digits beginning with the digit “3”, “6”, “8” or “9”, that is in accordance with the National Numbering Plan referred to in regulation 12A of the Telecommunications (Class Licences) Regulations (Cap. 323, Rg 3); or
- (b) any other telephone numbers as may be prescribed;

20

“subscriber”, in relation to a Singapore telephone number, means the subscriber of the telecommunication service to which the Singapore telephone number is allocated;

25

“voice call” includes —

- (a) a call that involves a recorded or synthetic voice; or
- (b) in the case of an addressee with a disability (for example, a hearing impairment), a call that is equivalent to a voice call,

30

whether or not the recipient responds by way of pressing buttons on a telephone handset or similar device.

(2) For the purposes of this Part, a telecommunications service provider who merely provides a service that enables a specified message to be sent shall, unless the contrary is proved, be presumed not to have sent the message and not to have authorised the message to be sent.

(3) For the purposes of this Part, if a specified message is sent and at the relevant time the telecommunications device, service or network from which it was sent was controlled by a person without the knowledge of the owners or authorised users of the telecommunications device, service or network, the owners or authorised users shall, unless the contrary is proved, be presumed not to have sent the message and not to have authorised the message to be sent.

(4) In subsection (3), “control” means either physical control or control through the use of software or other means.

Meaning of “specified message”

41.—(1) Subject to subsection (5), for the purposes of this Part, a specified message is a message, where, having regard to —

- (a) the content of the message;
- (b) the presentational aspects of the message;
- (c) the content that can be obtained using the numbers, URLs or contact information (if any) mentioned in the message; and
- (d) if the number from which the message is made is disclosed to the recipient (whether by calling line identity or otherwise), the content (if any) that can be obtained by calling that number,

it would be concluded that the purpose, or one of the purposes, of the message is —

- (i) to offer to supply goods or services;
- (ii) to advertise or promote goods or services;

- (iii) to advertise or promote a supplier, or prospective supplier, of goods or services;
 - (iv) to offer to supply land or an interest in land;
 - (v) to advertise or promote land or an interest in land;
 - 5 (vi) to advertise or promote a supplier, or prospective supplier, of land or an interest in land;
 - (vii) to offer to provide a business opportunity or investment opportunity;
 - 10 (viii) to advertise or promote a business opportunity or investment opportunity;
 - (ix) to advertise or promote a provider, or prospective provider, of a business opportunity or investment opportunity; or
 - (x) any other prescribed purpose related to obtaining or providing information.
- 15 (2) For the purposes of subsection (1)(i) to (x), it is immaterial whether —
- (a) the goods, services, land, interest or opportunity exists; or
 - (b) it is lawful to acquire the goods, services, land or interest or take up the opportunity.
- 20 (3) Subject to subsection (4), a person who knowingly allows his product or service to be advertised or promoted by a sender shall be deemed to have authorised the sending by the sender of any message that advertises or promotes that person's product or service.
- 25 (4) For the purposes of subsection (3), a person who takes reasonable steps to stop the sending of any message referred to in that subsection shall be deemed not to have authorised the sending of the message.
- 30 (5) For the purposes of this Part, a specified message shall not include any message referred to in the Tenth Schedule.

Application of Part IX

42. This Part shall apply to a specified message addressed to a Singapore telephone number whether or not —

- (a) the message is sent from or originates in Singapore;
- 5 (b) the sender of the message is present in Singapore when the message is sent;
- (c) the device that is used to access the message is located in Singapore; or
- 10 (d) the recipient of the message is present in Singapore when the message is accessed.

Division 2 — Administration

Register

43.—(1) The Commission shall cause to be kept and maintained one or more registers of Singapore telephone numbers, each known as a Do Not Call Register, for the purposes of this Part.

(2) The register shall be kept in such form and shall contain such particulars as the Commission thinks fit.

(3) The Commission may authorise another person to maintain any register, on its behalf, subject to such conditions or restrictions as the Commission may think fit.

Applications

44.—(1) A subscriber may apply to the Commission, in the form and manner prescribed, to —

- (a) add his Singapore telephone number to a register; or
- 25 (b) remove his Singapore telephone number from a register.

(2) Any person may apply to the Commission, in the form and manner required by the Commission, to confirm whether any Singapore telephone number is listed in a register.

Evidence

5 **45.** A certificate purporting to be signed by the Executive Director or an authorised officer and stating that a Singapore telephone number was or was not listed in a register at a date specified in the certificate shall be admissible as evidence of its contents in any proceedings.

Information on terminated Singapore telephone number

10 **46.—(1)** Every telecommunication service provider shall report to the Commission, in the form and manner prescribed, all terminated Singapore telephone numbers.

(2) A telecommunication service provider which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

15 (3) In this section, “terminated Singapore telephone number” means —

(a) a Singapore telephone number to which the following apply:

- 20 (i) the Singapore telephone number which has been allocated to a subscriber;
- (ii) the telecommunication service associated with the Singapore telephone number has been terminated by the subscriber or telecommunication service provider; and
- 25 (iii) the Singapore telephone number has not been allocated to a different subscriber; or

(b) any other telephone numbers or circumstances as may be prescribed.

(4) For the purpose of subsection (1), where —

- 30 (a) a Singapore telephone number has been allocated to a subscriber by a telecommunication service provider (referred to in this subsection as the first provider);

- (b) the telecommunication service associated with the Singapore telephone number has been terminated by the subscriber;
- 5 (c) the subscriber contracts for telecommunication service associated with the Singapore telephone number with another telecommunication service provider (referred to in this subsection as the subsequent provider);
- (d) the telecommunication service referred to in paragraph (c) has been terminated by the subscriber or the subsequent
10 provider; and
- (e) the Singapore telephone number has not subsequently been allocated to any subscriber,

it shall be the responsibility of the first provider to satisfy subsection (1).

- 15 (5) Without prejudice to the obligations of the telecommunication service provider under subsections (1) to (4), the Commission shall pay the prescribed fees to the telecommunication service provider for each terminated Singapore telephone numbers reported to the Commission in accordance with this section.

20 *Division 3 — Specified message to Singapore
telephone number*

Duty to check register

25 **47.—**(1) No person shall, on or after the prescribed date, send a specified message addressed to a Singapore telephone number unless he had within 30 days before sending the specified message —

- (a) applied to the Commission under section 44(2) to confirm whether that Singapore telephone number is listed in the relevant register; and
- 30 (b) received confirmation from the Commission that that Singapore telephone number is not listed in the relevant register.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

5 (3) In any proceedings for an offence under subsection (1), it shall be a defence for the person charged to prove that —

(a) he had within 30 days before sending the specified message —

10 (i) applied to the Commission under section 44(2) to confirm whether that Singapore telephone number is listed in the relevant register; and

(ii) received confirmation from the Commission that that Singapore telephone number is not listed in the relevant register; or

15 (b) the specified message was sent with the explicit consent of the subscriber or user of the telephone number.

(4) For the purpose of this section —

(a) where there is only one register kept or maintained under section 43, the relevant register shall refer to that one register; and

20 (b) where there are 2 or more registers kept or maintained under section 43 for different types of specified messages, the relevant register shall refer to the register relevant for the particular type of specified message.

Contact information

25 **48.**—(1) No person shall, on or after the prescribed date, send a specified message addressed to a Singapore telephone number unless —

30 (a) the specified message includes clear and accurate information identifying the individual or organisation who authorised the sending of the specified message;

(b) the specified message includes clear and accurate information about how the recipient can readily contact that individual or organisation;

(c) the specified message includes such information and complies with such conditions as is or are specified in the regulations, if any; and

5 (d) the information included in the specified message in compliance with this subsection is reasonably likely to be valid for at least 30 days after the message is sent.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

10 **Calling line identity not to be concealed**

49.—(1) A person who, on or after the prescribed date, sends a specified message addressed to a Singapore telephone number from a telephone number or facsimile number shall not —

15 (a) conceal or withhold from the addressee the calling line identity of the sender; or

(b) perform any operation or issue any instruction in connection with the sending of the specified message for the purpose of, or that has the effect of, concealing or withholding from the addressee the calling line identity of the sender.

20 (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

PART X

GENERAL

25 **Offences by bodies corporate, etc.**

50.—(1) Where an offence under this Act committed by a body corporate is proved —

(a) to have been committed with the consent or connivance of an officer; or

30 (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

5 (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

10 (a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

15 the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

20 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

25 the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“body corporate” includes a limited liability partnership;

“officer” —

30 (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

5 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of such a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

10 (6) Regulations may provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

Liability of principals, agents, employers and employees

15 **51.**—(1) Any act done or conduct engaged in by a person in the course of his employment (referred to in this section as the employee) shall be treated for the purposes of this Act as done or engaged in by his employer as well as by him, whether or not it was done or engaged in with the employer’s knowledge or approval.

20 (2) Any act done or conduct engaged in by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Act as done or engaged in by that other person as well as by him.

25 (3) In any proceedings for an offence under this Act brought against any person in respect of an act or conduct alleged to have been done or engaged in, as the case may be, by an employee or agent of that person, it is a defence for that person to prove that he took such steps as were practicable to prevent the employee or agent from doing the act or engaging in the conduct, or from doing or engaging in, in the course of his employment or authority, acts or conduct, as the case may be, of that description.

30 (4) In any proceedings for an offence under this Act brought against any employee in respect of an act or conduct alleged to have been done or engaged in, as the case may be, by the employee, it is

a defence for the employee to prove that he did the act or engaged in the conduct in good faith —

(a) in the course of his employment; or

5 (b) in accordance with instructions given to him by or on behalf of his employer in the course of his employment.

(5) Subsection (4) does not apply to an employee who, at the time the act was done or the conduct was engaged in, was in a position to make or influence a decision regarding that act or conduct.

Jurisdiction of courts

10 **52.** Notwithstanding any provision to the contrary in the Criminal Procedure Code 2010 (Act 15 of 2010), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Composition of offences

15 **53.—**(1) The Commission may, in its discretion, compound any offence under this Act (except Part IX) which is prescribed as being an offence which may be compounded by collecting from the person reasonably suspected of having committed the offence a sum not exceeding —

20 (a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$5,000,

whichever is the lower.

25 (2) The Commission may, in its discretion, compound any offence under Part IX which is prescribed as being an offence which may be compounded by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

(3) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

30 (4) The Minister may make regulations prescribing the offences which may be compounded.

General penalties

54. Any person guilty of an offence under this Act or any regulations made thereunder for which no penalty is expressly provided shall, in addition to the forfeiture of any article seized, be
 5 liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

Public servants

55. All members and officers of the Commission and persons authorised or appointed to exercise the powers of the Commission shall be deemed to be public servants within the meaning of the Penal Code (Cap. 224).

Evidence in proceedings

56.—(1) The Commission, the Appeal Panel, an Appeal Committee, their members and anyone acting for or under the direction of the Commission shall not give or be compelled to give
 20 evidence in a court or in any other proceedings in respect of any information obtained in performing their duties or exercising their powers or functions under this Act, except —

- (a) in a prosecution for perjury or for the furnishing of false information;
- (b) in a prosecution for an offence under this Act; or
- 25 (c) in an application for judicial review or an appeal from a decision with respect to that application.

(2) Subsection (1) applies also in respect of evidence of the existence of proceedings conducted before the Commission.

Preservation of secrecy

57.—(1) Subject to subsection (5), every specified person shall
 30 preserve, and aid in the preservation of, secrecy with regard to —

- (a) any personal data an organisation would be required or authorised to refuse to disclose if it were contained in personal data requested under section 23;
- 5 (b) whether information exists, if an organisation in refusing to provide access under section 23 does not indicate whether the information exists;
- (c) all matters that have been identified as confidential under subsection (3); and
- 10 (d) all matters relating to the identity of persons furnishing information to the Commission,

that may come to his knowledge in the performance of his functions and discharge of his duties under this Act and shall not communicate any such matter to any person, except in so far as such communication —

- 15 (i) is necessary for the performance of any such function or discharge of any such duty; or
- (ii) is lawfully required by any court, or lawfully required or permitted under this Act or any other written law.

20 (2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

(3) Any person, when furnishing any information to the Commission, may identify information that he claims to be confidential information.

25 (4) Every claim made under subsection (3) shall be supported by a written statement giving reasons why the information is confidential.

30 (5) Notwithstanding subsection (1), the Commission may disclose, or authorise any specified person to disclose, any information relating to any matter referred to in subsection (1) in any of the following circumstances:

- (a) where the consent of the person to whom the information relates has been obtained;

- (b) to the Public Prosecutor, any police officer and other law enforcement authorities information relating to the commission of an offence if the Commission considers there is evidence of the offence;
- 5 (c) to give effect to any provision of this Act;
- (d) for the purposes of a prosecution, application or appeal referred to in section 56;
- (e) to comply with any provision of a co-operation agreement entered into under section 12, where the conditions specified in subsection (6) are satisfied; or
- 10 (f) to a public body in such circumstances as may be prescribed by the Minister.
- (6) The conditions referred to in subsection (5)(e) are —
- (a) the information or documents requested by the foreign country are available to the Commission;
- 15 (b) unless the Government otherwise allows, the foreign country undertakes to keep the information given confidential at all times; and
- (c) the disclosure of the information is not likely to be contrary to the public interest.
- 20 (7) In this section, “specified person” means a person who is or has been —
- (a) a member or an officer of a relevant body;
- (b) a member of a committee of a relevant body or any person authorised, appointed or employed to assist the relevant body; or
- 25 (c) an inspector or a person authorised, appointed or employed to assist an inspector.

Protection from personal liability

- 30 **58.** No action, suit or other legal proceedings shall lie personally against —

- (a) any member or officer of a relevant body;
- (b) any person authorised, appointed or employed to assist a relevant body;
- 5 (c) any person who is on secondment or attachment to a relevant body;
- (d) any person authorised or appointed by a relevant body to exercise the relevant body's powers, perform a relevant body's functions or discharge the relevant body's duties or to assist the relevant body in the exercise of its powers, the performance of its functions or the discharge of its duties under this Act or any other written law; or
- 10 (e) any inspector or any person authorised, appointed or employed to assist him in connection with any function or duty of the inspector under this Act,
- 15 for anything done (including any statement made) or omitted to be done in good faith in the course of or in connection with —
 - (i) the exercise or purported exercise of any power under this Act or any other written law;
 - (ii) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Act or any other written law; or
 - 20 (iii) the compliance or purported compliance with this Act or any other written law.

Symbol of Commission

25 **59.**—(1) The Commission shall have the exclusive right to the use of such symbol or representation as may be prescribed in connection with its activities or affairs.

30 (2) Any person who, without the authority of the Commission, uses a symbol or representation identical with that of the Commission, or which so resembles the symbol or representation of the Commission as to deceive or cause confusion, or to be likely to deceive or to cause confusion, shall be guilty of an offence and shall

be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.

Power to exempt

5 **60.** The Commission may, with the approval of the Minister, by order, exempt any person or organisation or any class of persons or organisations from all or any of the provisions of this Act, subject to such terms or conditions as may be specified in the order.

Certificate as to national security, etc.

10 **61.** For the purposes of this Act, if any doubt arises as to whether any thing is necessary for the purpose of, or could harm, the national interest, a certificate signed by the Minister charged with responsibility for that matter shall be conclusive evidence of the matters stated therein.

Power to make orders

15 **62.**—(1) The Minister may, by order published in the *Gazette*, amend any of the Schedules, except the Eighth Schedule.

20 (2) The Minister may at any time within the period of 2 years after the appointed day, by order published in the *Gazette*, repeal or amend any written law in force on the appointed day which appears to him to be unnecessary having regard to the provisions of this Act or to be inconsistent with any provision of this Act.

(3) An order under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

Power to make regulations

25 **63.**—(1) The Minister may make such regulations as may be necessary or expedient for carrying out the purposes and provisions of this Act and for prescribing anything that may be required or authorised to be prescribed by this Act.

30 (2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters:

- 5 (a) the form, manner and procedures, relating to making and responding to requests under this Act, including the content of responses to requests under this Act, the period for such responses, the circumstances in which an organisation may refuse to provide a response or refuse to confirm or deny the existence of any matter and the fees that an organisation may charge in respect of such requests;
- 10 (b) the classes of individuals who may act under this Act for minors, deceased persons or any other individuals who lack capacity to act under this Act and regulating the manner in which, and the extent to which, any rights or powers of individuals under this Act may be exercised on their behalf;
- (c) the arrangements for the transfer of the Fund in the event of the replacement of the Administration Body;
- 15 (d) the form, manner and procedures relating to applications and complaints under this Act;
- (e) the conduct of reviews by the Commission under section 30;
- 20 (f) the conduct of inquiries of the Commission under section 33 and the practice, procedure and rules of evidence relating thereto;
- (g) the recovery and payment of financial penalties imposed under section 31, and the imposition of interest on any financial penalty imposed, confirmed or varied by an Appeal Committee;
- 25 (h) the form, manner and procedures for appeals to an Appeal Committee, including the fees to be paid in respect such appeals;
- (i) interest that an Appeal Committee may order to be paid on any financial penalty imposed, confirmed or varied by the Appeal Committee;
- 30 (j) the award of costs of or incidental to any proceedings before the Commission or Appeal Committee, and the award of expenses, including any allowances payable to

persons in connection with their attendance before the Commission or Appeal Committee;

(k) the criteria for determining whether a Singapore telephone number is eligible to be listed in a register; and

5 (l) the fees to be paid in respect of applications, and services provided by or on behalf of the Commission, under this Act, including applications to confirm whether a Singapore telephone number is listed in the relevant register for the purposes of section 47(1)(a).

10 (3) A regulation made under this section may provide differently for different organisations, individuals, classes of organisations or classes of individuals.

Rules of Court

15 **64.** Rules of Court (Cap. 322, R 5) may provide for the practice and procedure relating to actions under section 36 and appeals under section 39, including the requirement that the plaintiff notify the Commission upon commencing any such action or appeal, and for matters related thereto.

Related amendments to Info-communications Development

Authority of Singapore Act

20 **65.** The Info-communications Development Authority of Singapore Act (Cap. 137A) is amended —

(a) by deleting the word “and” at the end of section 6(1)(t);

25 (b) by deleting the full-stop at the end of paragraph (u) of subsection (1) of section 6 and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

30 “(v) to support the Data Protection Commission in the performance of its functions and duties and exercise of its powers under the Personal Data Protection Act 2012.”; and

(c) by inserting, immediately after paragraph 31 in the Second Schedule, the following paragraphs:

“31A. To provide administrative support, including the provision of premises, office supplies and equipment and manpower and premises to the Data Protection Commission in the performance of its functions under the Personal Data Protection Act 2012.

5 31B. To perform the functions and duties and exercise the powers of the Administration Body under the Personal Data Protection Act 2012, if so appointed.”

FIRST SCHEDULE

Sections 2 and 6(3)

10 CONSTITUTION AND PROCEEDINGS OF DATA PROTECTION COMMISSION

Appointment of Executive Director and Deputy Executive Director

1.—(1) The Executive Director and the Deputy Executive Director shall be appointed by the Minister from among the members of the Commission.

15 (2) The Deputy Executive Director may, subject to such directions as may be given by the Executive Director, exercise all or any of the powers exercisable by the Executive Director under this Act.

Temporary Executive Director or Deputy Executive Director

20 2. The Minister may appoint any member to be a temporary Executive Director or temporary Deputy Executive Director during the temporary incapacity from illness or otherwise or during the temporary absence from Singapore of the Executive Director or the Deputy Executive Director, as the case may be.

Revocation of appointment

25 3. The Minister may revoke the appointment of the Executive Director, the Deputy Executive Director or any member without assigning any reason.

Tenure of office of appointed member

30 4. The Executive Director, the Deputy Executive Director or a member, unless his appointment is revoked by the Minister or unless he resigns during his term of office, shall hold office for such period as the Minister may determine and shall be eligible for reappointment.

Filling of vacancies

- 5 5. If a member resigns, dies or has his appointment revoked before the expiry of the term for which he has been appointed, the Minister may appoint a person to fill the vacancy for the remainder of the term for which his predecessor was appointed.

Meetings of Commission

- 6.—(1) The Commission shall meet for the despatch of business at such times and places as the Executive Director may from time to time appoint.
- 10 (2) At every meeting of the Commission, one half of the number of members shall form a quorum.
- (3) A decision at a meeting of the Commission shall be adopted by a simple majority of the members present and voting except that, in the case of an equality of votes, the Executive Director or member presiding shall have a casting vote in addition to his original vote.
- 15 (4) The Executive Director or, in his absence, the Deputy Executive Director shall preside at meetings of the Commission.
- (5) Where both the Executive Director and the Deputy Executive Director are absent at a meeting, such member as the members present may elect shall preside at that meeting.
- 20 (6) Subject to the provisions of this Act, the Commission may make rules to regulate its own procedures generally and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the custody, production and inspection of such minutes.

Commission may act notwithstanding vacancy

- 25 7. The Commission may act notwithstanding any vacancy in its membership.

Interpretation

8. In this Schedule, “Deputy Executive Director” means the Deputy Executive Director of the Commission.

SECOND SCHEDULE

Section 10(6)

MANAGEMENT AND ADMINISTRATION OF DATA PROTECTION FUND

5 **Financial year of Fund**

1. The financial year of the Fund shall be a period of 12 months ending on 31st March in any year, except that the first financial year of the Fund shall begin on the date of commencement of Part II and end on 31st March of the succeeding year.

10 **Responsibility for Fund**

2. The Administration Body shall manage and administer the Fund in accordance with this Act.

Budget

15 3. The Administration Body shall submit to the Minister for approval, not later than 30 days before the end of each financial year of the Fund, a budget for the Fund in respect of the financial year next following in relation to that Fund.

Accounts to be kept

- 20 4. The Administration Body shall —
- (a) cause to be kept proper accounts and records of all transactions and affairs relating to the Fund;
 - (b) do all things necessary to ensure that payments out of the Fund are properly authorised and correctly made; and
 - (c) ensure that adequate control is maintained over the assets and receipts of the Fund.

25 **Financial statements and audit reports**

5.—(1) The accounts of the Fund shall be audited by the Auditor-General or by an auditor appointed annually by the Minister in consultation with the Auditor-General.

(2) The remuneration of the auditor shall be paid out of the Fund.

30 (3) The Administration Body shall, as soon as practicable after the close of each financial year of the Fund, cause to be prepared and submitted the financial statements and accounts for the Fund relating to that financial year to the auditor who shall audit and report on them.

5 (4) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Administration Body, and shall also submit such periodical and special reports to the Administration Body as may appear to him to be necessary or as the Minister or the Administration Body may require.

(5) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting and other records.

10 (6) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access as the auditor or any duly authorised person considers necessary for the purposes of his functions under this Act.

15 (7) As soon as the accounts of the Fund and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements signed by the Executive Director, together with a copy of any report made by the auditor, shall be submitted to the Minister.

(8) Where the Auditor-General is not appointed the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Administration Body.

20 (9) The Minister shall as soon as practicable cause a copy of the audited financial statements of the Fund and the auditor's report to be presented to Parliament.

Annual report

25 6.—(1) The Administration Body shall, as soon as practicable after the end of each financial year, send to the Minister a report dealing on the activities of the Commission and the Administration Body during the preceding financial year and containing such information relating to the proceedings and policy of the Commission and the Administration Body as the Minister may, from time to time, direct.

30 (2) The Minister shall, as soon as practicable, cause a copy of every such report to be presented to Parliament.

THIRD SCHEDULE

Section 19(1)

COLLECTION OF PERSONAL DATA WITHOUT CONSENT

35 1. An organisation may collect personal data about an individual without the consent of the individual or from a source other than the individual only if —

- (a) the collection is necessary for any purpose that is clearly in the interests of the individual, and consent for its collection cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent;
- 5 (b) the collection is necessary to respond to an emergency that threatens the life, health or security of an individual;
- (c) the personal data is available to the public from a prescribed source;
- (d) the personal data is collected by observation at a performance, a sports meet or a similar event —
- 10 (i) at which the individual voluntarily appears; and
- (ii) that is open to the public;
- (e) the collection is necessary in the national interest;
- (f) the collection is necessary for any investigation or proceedings, if it is reasonable to expect that seeking the consent of the individual would
- 15 compromise the availability or the accuracy of the personal data;
- (g) the collection is required or authorised by law;
- (h) the collection is necessary for prescribed evaluative purposes;
- (i) the personal data is collected solely for artistic or literary purposes;
- (j) the personal data is collected by a news organisation solely for its news
- 20 activity;
- (k) the personal data is collected solely for the organisation to collect a debt owed to the organisation by the individual or for the organisation to pay to the individual a debt owed by the organisation;
- (l) the collection is necessary for the provision of legal services by the
- 25 organisation to another person or for the organisation to obtain legal services;
- (m) the personal data is collected by a credit bureau from a bank or financial institution to create a credit report;
- (n) the personal data is collected solely to confer an interest or benefit on
- 30 the individual under a private trust or a benefit plan, and to administer such trust or benefit plan, at the request of the settlor;
- (o) the personal data was provided to the organisation by another individual to enable the organisation to provide a service solely for the personal or domestic purposes of that other individual;
- 35 (p) the personal data is business contact information;
- (q) subject to section 22(4) —

- (i) the personal data is included in a document or record produced in the course, and for the purposes, of the individual's employment, business or profession; and
 - (ii) that document or record is collected solely for purposes consistent with the purposes for which the document or record was produced;
- 5
- (r) subject to section 22(4), the personal data is collected by the individual's employer and the collection is reasonable for the purposes of managing or terminating an employment relationship between the organisation and the individual;
- 10
- (s) the personal data was disclosed by a public agency, and the collection is consistent with the purpose of the disclosure by the public agency; and
 - (t) subject to paragraphs 2 and 3, the personal data —
- 15
- (i) was disclosed to the organisation in accordance with section 19(3); and
 - (ii) is collected by the organisation solely for the purposes consistent with the purpose of that disclosure.
- 20
- 2.—(1) This paragraph shall apply if personal data collected under paragraph 1(*t*) is disclosed to the organisation by another organisation under paragraph 1(*s*) of the Fifth Schedule.
- (2) If the organisation is a prospective party to the business asset transaction —
- 25
- (a) the personal data collected must be necessary for the organisation to determine whether to proceed with the business asset transaction; and
 - (b) the organisation and the other organisation must have entered into an agreement that requires the prospective party to use or disclose the personal data solely for purposes related to the business asset transaction.
- 30
- (3) If the organisation enters into the business asset transaction with the other organisation —
- 35
- (a) the organisation shall only use or disclose the personal data collected for the same purposes for which the other organisation would have been permitted to use or disclose the data;
 - (b) if any of the personal data collected does not relate directly to the part of the other organisation or its business assets with which the business asset transaction entered into is concerned, the organisation shall destroy, or return to the other organisation, any such personal data; and

(c) the employees, customers, directors, officers and shareholders whose personal data is disclosed shall be notified that —

(i) the business asset transaction has taken place; and

(ii) the personal data about them has been disclosed to the organisation.

(4) If a business asset transaction does not proceed or is not completed, the organisation shall destroy, or return to the other organisation, all the personal data collected.

(5) In this paragraph, “business asset transaction” and “party” have the same meanings respectively as in paragraph 4(4) of the Fifth Schedule.

3. For the avoidance of doubt, personal data disclosed before the appointed day in the circumstances and conditions set out in the Fifth Schedule shall satisfy paragraph 1(*t*) notwithstanding that section 19(3) was not in force at the time of the disclosure.

FOURTH SCHEDULE

Section 19(2)

USE OF PERSONAL DATA WITHOUT CONSENT

1. An organisation may use personal data about an individual without the consent of the individual only if —

(a) the use is necessary for any purpose which is clearly in the interests of the individual, and consent for its use cannot be obtained in a timely way or the individual would not reasonably be expected to withhold consent;

(b) the use is necessary to respond to an emergency that threatens the life, health or security of an individual;

(c) the personal data is available to the public from a prescribed source;

(d) the personal data was collected by observation at a performance, a sports meet or a similar event —

(i) at which the individual voluntarily appears; and

(ii) that is open to the public;

(e) the use is necessary in the national interest;

(f) the use is necessary for any investigation or proceedings;

(g) the use is required or authorised by law;

- (h) the use is necessary for prescribed evaluative purposes;
 - (i) the personal data is used solely for artistic or literary purposes;
 - (j) subject to paragraph 2, the personal data is used by a news organisation solely for its news activity;
 - 5 (k) the personal data is used solely for the organisation to collect a debt owed to the organisation by the individual or for the organisation to pay to the individual a debt owed by the organisation;
 - (l) the use is necessary for the provision of legal services by the organisation to another person or for the organisation to obtain legal services;
 - 10 (m) subject to paragraph 3, the personal data is used for a research purpose, including historical or statistical research; and
 - (n) subject to paragraphs 4 and 5 —
 - (i) the data was collected by the organisation in accordance with section 19(1); and
 - 15 (ii) is used by the organisation solely for the purposes consistent with the purpose of that collection.
2. Paragraph 1(j) shall not apply if the personal data about the individual was collected by the organisation for the purpose of establishing, managing or terminating an employment relationship between the organisation and that individual.
- 20
3. Paragraph 1(m) shall not apply unless —
- (a) the research purpose cannot reasonably be accomplished unless the personal data is provided in an individually identifiable form;
 - 25 (b) it is impracticable for the organisation to seek the consent of the individual for the use;
 - (c) the personal data will not be used to contact persons to ask them to participate in the research;
 - (d) linkage of the personal data to other information is not harmful to the individuals identified by the personal data and the benefits to be derived from the linkage are clearly in the public interest; or
 - 30 (e) the organisation to which the personal data is to be disclosed has signed an agreement to comply with —
 - (i) this Act;
 - 35 (ii) the policies and procedures relating to the confidentiality of personal data of the organisation that collected the personal data;

- (iii) security and confidentiality conditions of the organisation disclosing the personal data;
 - (iv) a requirement to remove or destroy individual identifiers at the earliest reasonable opportunity; and
 - 5 (v) a requirement not to use the personal data for any other purpose or to disclose the personal data in individually identifiable form without the express authorisation of the organisation that disclosed the personal data.
4. For the purposes of paragraph 1(*n*), the organisation shall comply with paragraph 2 of the Third Schedule if personal data —
- 10 (a) was collected by the organisation under paragraph 1(*t*) of the Third Schedule; and
- (b) was disclosed to the organisation by another organisation under paragraph 1(*s*) of the Fifth Schedule.
- 15 5. For the avoidance of doubt, personal data collected before the appointed day in the circumstances and conditions set out in the Third Schedule shall satisfy paragraph 1(*n*) notwithstanding that section 19(1) was not in force at the time of the collection.

FIFTH SCHEDULE

20

Sections 19(3)

DISCLOSURE OF PERSONAL DATA WITHOUT CONSENT

1. An organisation may disclose personal data about an individual without the consent of the individual only if —
- 25 (a) the disclosure is necessary for any purpose which is clearly in the interests of the individual, if consent for its use cannot be obtained in a timely way;
 - (b) the disclosure is necessary to respond to an emergency that threatens the life, health or safety of an individual;
 - 30 (c) subject to paragraph 2, there are reasonable grounds to believe that the health or safety of any individual will be seriously affected and consent for the use of the data cannot be obtained in a timely way;
 - (d) the personal data is available to the public from a prescribed source;
 - (e) the personal data was collected by observation at a performance, a sports meet or a similar event —
 - 35 (i) at which the individual voluntarily appears; and

- (ii) that is open to the public;
- (f) the disclosure is necessary in the national interest;
- (g) the disclosure is necessary for any investigation or proceedings;
- (h) the disclosure is required or authorised by law;
- 5 (i) the disclosure is to a public agency and such disclosure is necessary in the public interest;
- (j) the disclosure is necessary for prescribed evaluative purposes;
- (k) the disclosure is solely for artistic or literary purposes;
- 10 (l) subject to paragraph 3, the disclosure is by a news organisation solely for its news activity;
- (m) the disclosure is necessary for the organisation to collect a debt owed by the individual to the organisation or for the organisation to pay to the individual a debt owed by the organisation;
- 15 (n) the disclosure is necessary for the provision of legal services by the organisation to another person or for the organisation to obtain legal services;
- 20 (o) the personal data is contained in a credit report disclosed by a credit bureau to a member of the credit bureau, solely to enable the member to assess the creditworthiness of the individual in relation to a transaction with the member requested by the individual;
- (p) the personal data about the current or former students of the organisation, being an education institution, is disclosed to a public agency solely for the purposes of policy formulation or review;
- 25 (q) the personal data is disclosed to any officer of a prescribed law enforcement agency, upon production of written authorisation signed by the head or director of that law enforcement agency or a person of a similar rank, certifying that the personal data is necessary for the purposes of the functions or duties of the officer;
- 30 (r) the disclosure is for the purpose of contacting the next of kin or a friend of an injured, ill or deceased individual;
- (s) subject to paragraph 4, the personal data —
 - (i) is disclosed to a party or a prospective party to a business asset transaction with the organisation;
 - 35 (ii) is about an employee, customer, director, officer or shareholder of the organisation; and
 - (iii) relates directly to the part of the organisation or its business assets with which the business asset transaction is concerned;

- (*t*) subject to paragraph 5, the disclosure is for a research purpose, including historical or statistical research;
- (*u*) the disclosure is for archival or historical purposes if a reasonable person would not consider the personal data to be too sensitive to the individual to be disclosed at the proposed time; or
- (*v*) the personal data was collected by the organisation in accordance with section 19(1) and is disclosed solely for the purposes consistent with the purpose of that collection.
2. In the case of a disclosure under paragraph 1(*c*), the organisation shall, as soon as may be practicable, notify the individual of the disclosure and the purposes of the disclosure.
3. Paragraph 1(*l*) shall not apply if the personal data about the individual was collected by the organisation for the purpose of establishing, managing or terminating an employment relationship between the organisation and that individual.
- 4.—(1) This paragraph shall apply to personal data disclosed under paragraph 1(*s*).
- (2) In the case of disclosure to a prospective party to the business asset transaction —
- (*a*) the personal data must be necessary for the prospective party to determine whether to proceed with the business asset transaction; and
- (*b*) the organisation and prospective party must have entered into an agreement that requires the prospective party to use or disclose the personal data solely for purposes related to the business asset transaction.
- (3) If the organisation enters into the business asset transaction, the employees, customers, directors, officers and shareholders whose personal data is disclosed shall be notified that —
- (*a*) the business asset transaction has taken place; and
- (*b*) the personal data about them has been disclosed to the party.
- (4) In paragraph 1(*s*) and this paragraph, —
- “business asset transaction” means the purchase, sale, lease, merger or amalgamation or any other acquisition, disposal or financing of an organisation or a portion of an organisation or of any of the business or assets of an organisation other than the personal data to be disclosed under paragraph 1(*s*);
- “party” means another organisation that enters the business asset transaction with the organisation.

5. Paragraph 1(*t*) shall not apply unless —

- (*a*) the research purpose cannot reasonably be accomplished unless the personal data is provided in an individually identifiable form;
- 5 (*b*) it is impracticable for the organisation to seek the consent of the individual for the disclosure;
- (*c*) the personal data will not be used to contact persons to ask them to participate in the research;
- (*d*) linkage of the personal data to other information is not harmful to the individuals identified by the personal data and the benefits to be
10 derived from the linkage are clearly in the public interest; and
- (*e*) the organisation to which the personal data is to be disclosed has signed an agreement to comply with —
 - (i) this Act;
 - 15 (ii) the policies and procedures relating to the confidentiality of personal data of the organisation that collected the personal data;
 - (iii) security and confidentiality conditions of the organisation disclosing the personal data;
 - (iv) a requirement to remove or destroy individual identifiers at the
20 earliest reasonable opportunity; and
 - (v) a requirement not to use the personal data for any other purpose or to disclose the personal data in individually identifiable form without the express authorisation of the organisation that disclosed the personal data.

25 6. For the avoidance of doubt, personal data collected before the appointed day in the circumstances and conditions set out in the Third Schedule shall satisfy paragraph 1(*v*) notwithstanding that section 19(1) was not in force at the time of the collection.

SIXTH SCHEDULE

30

Section 23

EXCEPTIONS FROM ACCESS REQUIREMENT

1. An organisation is not required to provide information under section 23(1) in respect of —

- (*a*) opinion data kept solely for an evaluative purpose;

- (b) any examination conducted by an education institution, examination scripts and, prior to the release of examination results, examination results;
- 5 (c) the personal data of the beneficiaries of a private trust kept solely for the purposes of administering the trust;
- (d) personal data kept by an arbitral institution or mediation centre solely for the purposes of arbitration or mediation proceedings administered by the arbitral institution or mediation centre;
- 10 (e) a document related to a prosecution if all proceedings related to the prosecution have not been completed;
- (f) personal data which is subject to legal professional privilege;
- (g) personal data which, if disclosed, would reveal confidential commercial information that could, in the opinion of a reasonable person, harm the competitive position of the organisation;
- 15 (h) personal data collected, used or disclosed without consent, under paragraph 1(f) of the Third Schedule, paragraph 1(f) of the Fourth Schedule or paragraph 1(g) of the Fifth Schedule, respectively, for the purposes of an investigation if the investigation and associated proceedings and appeals have not been completed;
- 20 [Alternative: (h) it is reasonable to expect that the disclosure would compromise any investigation or proceeding]
- (i) the personal data was collected or created by a mediator or arbitrator in the conduct of a mediation or arbitration for which he was appointed to act —
- 25 (i) under a collective agreement under the Industrial Relations Act (Cap. 136) or by agreement between the parties to the mediation or arbitration;
- (ii) under any written law; or
- (iii) by a court, arbitral institution, or mediation centre;
- 30 (j) medical records held by a healthcare institution licensed under the Private Hospitals and Medical Clinics Act (Cap. 248); or
- (k) any request —
- 35 (i) that would unreasonably interfere with the operations of the organisation because of the repetitious or systematic nature of the requests;
- (ii) if the burden or expense of providing access would be unreasonable to the organisation or disproportionate to the individual's interests;

- (iii) for information that does not exist or cannot be found;
- (iv) for information that is trivial; or
- (v) that is otherwise frivolous or vexatious.

SEVENTH SCHEDULE

5

Section 24(6)

EXCEPTIONS FROM CORRECTION REQUIREMENT

1. Section 24 shall not apply in respect of —
 - (a) opinion data kept solely for an evaluative purpose;
 - 10 (b) any examination conducted by an education institution, examination scripts and, prior to the release of examination results, examination results;
 - (c) the personal data of the beneficiaries of a private trust kept solely for the purposes of administering the trust;
 - 15 (d) personal data kept by an arbitral institution or mediation centre solely for the purposes of arbitration or mediation proceedings administered by the arbitral institution or mediation centre;
 - (e) a document related to a prosecution if all proceedings related to the prosecution have not been completed; or
 - 20 (f) medical records held by a healthcare institution licensed under the Private Hospitals and Medical Clinics Act (Cap. 248).

EIGHTH SCHEDULE

Section 33(2)

POWERS OF INVESTIGATION AND INQUIRY OF COMMISSION AND INSPECTORS

25 **Power to require documents or information**

- 1.—(1) For the purposes of an investigation under section 33, the Commission or an inspector may, by notice in writing to any organisation, require the organisation to produce to the Commission or the inspector a specified document, or to provide the Commission or inspector with specified
 - 30 information, which the Commission or inspector considers relates to any matter relevant to such investigation.

(2) A notice under sub-paragraph (1) shall indicate the purpose for which the specified document or specified information is required by the Commission.

(3) The Commission may specify in the notice —

5 (a) the time and place at which any document is to be produced or any information is to be provided; and

(b) the manner and form in which it is to be produced or provided.

(4) The power under this section to require an organisation to produce a document includes the power —

(a) if the document is produced —

10 (i) to take copies of it or extracts from it; and

(ii) to require such organisation, or any person who is a present or past officer of the organisation, or is or was at any time employed by the organisation, to provide an explanation of the document; or

15 (b) if the document is not produced, to require such organisation or person to state, to the best of his knowledge and belief, where it is.

(5) In sub-paragraphs (1) and (2), “specified” means —

(a) specified or described in the notice; or

(b) falling within a category which is specified or described in the notice.

20 **Power to enter premises without warrant**

2.—(1) In connection with an investigation under section 33, an inspector, and such other persons as the inspector may require to assist him, may enter any premises.

25 (2) No inspector or person assisting the inspector shall enter any premises in the exercise of the powers under this section unless the inspector has given the occupier of the premises a written notice which —

(a) gives at least 2 working days’ notice of the intended entry; and

(b) indicates the subject matter and purpose of the investigation.

30 (3) Sub-paragraph (2) shall not apply if the inspector has reasonable grounds for suspecting that the premises are, or have been, occupied by an organisation which is being investigated in relation to a contravention of this Act if the inspector has taken all such steps as are reasonably practicable to give notice but has not been able to do so.

35 (4) Where sub-paragraph (3) applies, the power of entry conferred by sub-paragraph (1) shall be exercised upon production of —

- (a) evidence of the inspector's appointment; and
- (b) a document containing the information referred to in sub-paragraph (2)(b).

5 (5) An inspector or a person assisting the inspector entering any premises under this section may —

- (a) take with him such equipment as appears to him to be necessary;
- (b) require any person on the premises —
 - (i) to produce any document which he considers relates to any matter relevant to the investigation; and
 - 10 (ii) if the document is produced, to provide an explanation of it;
- (c) require any person to state, to the best of his knowledge and belief, where any such document is to be found;
- (d) take copies of, or extracts from, any document which is produced;
- 15 (e) require any information which is stored in any electronic form and is accessible from the premises and which he considers relates to any matter relevant to the investigation, to be produced in a form —
 - (i) in which it can be taken away; and
 - (ii) in which it is visible and legible; and
- 20 (f) take any step which appears to be necessary for the purpose of preserving or preventing interference with any document which he considers relates to any matter relevant to the investigation.

Power to enter premises under warrant

3.—(1) The Commission or any inspector may apply to a court for a warrant and the court may issue such a warrant if it is satisfied that —

- 25 (a) there are reasonable grounds for suspecting that there are on any premises documents —
 - (i) the production of which has been required under paragraph 1 or 2; and
 - (ii) which have not been produced as required;
- 30 (b) there are reasonable grounds for suspecting that —
 - (i) there are on any premises documents which the Commission or the inspector has power under paragraph 1 to require to be produced; and

- (ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed; or
 - (c) an inspector or a person assisting the inspector has attempted to enter the premises in the exercise of his powers under paragraph 2 but has been unable to do so and that there are reasonable grounds for suspecting that there are on the premises documents the production of which could have been required under that paragraph.
- (2) A warrant under this paragraph shall authorise a named officer, and such other persons as the inspector may require to assist him, to do all or any of the following:
- (a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;
 - (b) to search any person on those premises if there are reasonable grounds for believing that that person has in his possession any document, equipment or article which has a bearing on the investigation;
 - (c) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under sub-paragraph (1) was granted (the relevant kind);
 - (d) to take possession of any document appearing to be of the relevant kind if —
 - (i) such action appears to be necessary for preserving the document or preventing interference with it; or
 - (ii) it is not reasonably practicable to take copies of the document on the premises;
 - (e) to take any other step which appears to be necessary for the purpose mentioned in sub-paragraph (2)(d)(i);
 - (f) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;
 - (g) to require any information which is stored in any electronic form and is accessible from the premises and which he considers relates to any matter relevant to the investigation, to be produced in a form —
 - (i) in which it can be taken away;
 - (ii) in which it is visible and legible; and
 - (h) to remove from those premises for examination any equipment or article which relates to any matter relevant to the investigation.

5 (3) If, in the case of a warrant under sub-paragraph (1)(b), the court is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall also authorise the actions mentioned in sub-paragraph (2) to be taken in relation to any such document.

(4) Where possession of any document is taken under sub-paragraph (2)(d) or (3), the named officer may, at the request of the person from whom possession of the document was taken, provide such person with a copy of the document.

10 (5) A named officer may allow any equipment or article which has a bearing on an investigation and which may be removed from any premises for examination under sub-paragraph (2)(h) to be retained on those premises subject to such conditions as the named officer may require.

(6) A warrant issued under this section shall —

- 15 (a) indicate the subject matter and purpose of the investigation; and
(b) continue in force until the end of the period of one month beginning from the day on which it is issued.

(7) The powers conferred by this section shall not be exercised except upon production of a warrant issued under this section.

20 (8) Any person entering premises by virtue of a warrant under this section may take with him such equipment as appears to him to be necessary.

(9) If there is no one at the premises when the named officer proposes to execute such a warrant, he shall, before executing it —

- 25 (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and
(b) if the occupier is informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.

30 (10) If the named officer is unable to inform the occupier of the intended entry, he shall, when executing the warrant, leave a copy of it in a prominent place on the premises.

(11) On leaving any premises which he has entered by virtue of a warrant under this section, the named officer shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

35 (12) Any document of which possession is taken under sub-paragraph (2)(d) may be retained for a period of 3 months.

(13) In this paragraph —

“named officer” means an inspector named in the warrant;

“occupier”, in relation to any premises, means a person whom the inspector reasonably believes is the occupier of those premises.

NINTH SCHEDULE

Section 37(5)

5 CONSTITUTION AND PROCEEDINGS OF DATA PROTECTION APPEAL PANEL AND DATA PROTECTION APPEAL COMMITTEES

Data Protection Appeal Panel

1.—(1) The Data Protection Appeal Panel shall consist of not more than 30 members appointed, from time to time, by the Minister on the basis of their ability and experience in industry, commerce or administration or their professional qualifications or their suitability otherwise for appointment.

(2) Members of the Appeal Panel shall be appointed for such period as may be determined by the Minister and shall be eligible for re-appointment.

(3) The Minister may at any time cancel the appointment of any member of the Appeal Panel without assigning any reason.

(4) A member of the Appeal Panel may resign by giving notice in writing to the Minister.

Chairman or temporary Chairman

2.—(1) The Chairman, unless his appointment is revoked by the Minister or unless he resigns during his term of office, shall hold office for such period as the Minister may determine and shall be eligible for reappointment.

(2) The Minister may appoint any member to be a temporary Chairman during the temporary incapacity from illness or otherwise or during the temporary absence from Singapore of the Chairman.

25 Proceedings of Appeal Committees

3.—(1) Subject to sub-paragraph (2), where the Chairman is nominated as a member of an Appeal Committee under section 37(4), he shall preside at every meeting of the Appeal Committee, and where the Chairman is not nominated as a member of the Appeal Committee, the Chairman shall determine which member of the Appeal Committee shall preside at every meeting of that Appeal Committee.

(2) All matters coming before an Appeal Committee at any sitting thereof shall be decided by a majority of votes of those members present and, in the event of an equality of votes, the Chairman (if he is nominated as a member of

the Appeal Committee) or any other member presiding shall have a second or casting vote.

- 5 (3) Any member of the Appeal Panel whose term of appointment expires in the course of proceedings by an Appeal Committee to which he has been appointed shall continue as a member of that Appeal Committee until the Committee has completed its work.

Powers of Appeal Committees

10 4.—(1) An Appeal Committee shall have all the powers and duties of the Commission that are necessary to perform its functions and discharge its duties under this Act.

(2) An Appeal Committee shall have the powers, rights and privileges vested in a District Court on the hearing of an action, including —

- 15 (a) the enforcement of the attendance of witnesses and their examination on oath or otherwise;
- (b) the compelling of the production of documents; and
- (c) the award of such costs or expenses as may be prescribed under section 63.

20 (3) A summons signed by such member of an Appeal Committee as may be authorised by the Appeal Committee shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(4) Where any person being duly summoned to attend before an Appeal Committee does not so attend, that person shall be guilty of an offence.

25 (5) A witness before an Appeal Committee shall be entitled to the same immunities and privileges as if he were a witness before a District Court.

(6) All appeals under this section shall be determined, having regard to the nature and complexity of the appeal, as soon as reasonably practicable.

(7) An Appeal Committee shall notify the Commission and the appellant of the date on and the place at which the appeal shall be heard.

30 (8) An Appeal Committee shall notify the Commission and the appellant of its decision in respect of his appeal and the reasons for its decision.

Allowances

5. Members of the Committee may receive such remuneration and such travelling and subsistence allowances as the Minister may determine.

TENTH SCHEDULE

Section 41(5)

EXCLUSION FROM MEANING OF SPECIFIED MESSAGE

1. For the purposes of Part IX, a specified message shall not include any of the following:
- (a) any message sent by a public agency to promote any programme of a non-commercial nature;
 - (b) any message sent by an individual acting in a personal or domestic capacity;
 - (c) any message which is necessary to respond to an emergency that threatens the health, safety or welfare of an individual;
 - (d) any message the sole purpose of which is—
 - (i) to facilitate, complete or confirm a transaction that the recipient has previously agreed to enter into with the sender;
 - (ii) to provide warranty information, product recall information or safety or security information with respect to a product or service purchased or used by the recipient; or
 - (iii) to deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender;
 - (e) any message the sole purpose of which is to provide —
 - (i) notification concerning a change in the terms or features of;
 - (ii) notification of a change in the recipient's standing or status with respect to; or
 - (iii) at regular periodic intervals, account balance information or other type of account statement with respect to,
 - a subscription, membership, account, loan or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of goods or services offered by the sender;
 - (f) any message the sole purpose of which is to conduct market research or market survey.
2. For the purposes of paragraph 1, "individual" excludes a sole proprietor registered under the Business Registration Act (Cap. 32).